



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1266th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 16 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.98-15571 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Tenth to fourteenth periodic reports of Cameroon (continued)
(CERD/C/298/Add.3)

1. At the invitation of the Chairman, the members of the delegation of Cameroon resumed their places at the Committee table.
2. Ms. McDUGALL said she appreciated the measures taken by the Government to secure women's participation in government structures and realization of their human rights. The group referred to as pygmies were forest dwellers and hunter-gatherers, and their way of life and culture was totally dependent on the forest ecosystem. Did the Government believe that their socio-economic integration into an agriculture-based economy and lifestyle was a goal that would allow them to preserve their culture and way of life? What was their role in decision-making on efforts to integrate them into the rest of society and on the exploitation of the forestry resources that were so crucial to maintaining their way of life?
3. More information was also needed on the measures the Government was taking to ensure equal participation by all 230 ethnic groups in the legislative, executive and judiciary branches of the Government.
4. Mr. NOBEL asked who were the 4 million foreigners referred to in paragraph 15. What were their occupations, under what conditions did they live and were they effectively protected against ethnic or racial discrimination? Were a number of them actually refugees but not recognized as such? How did the refugee machinery work? Had Cameroon acceded to the Convention relating to the Status of Refugees, the Protocol relating to the Status of Refugees, and the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa?
5. Did Cameroon incorporate international human rights instruments into domestic law by transposing the entire text of the former into its own legislation; did it amend its own legislation to adjust it to international law, thereby transferring international law into domestic legislation; or was there a third method?
6. Regarding the relations between the pygmies and the Bantu, and efforts to assist the former in achieving recognition of their culture, how serious was the situation of the pygmies? Could measures be taken that did not endanger their right to the lifestyle of their choice?
7. Mrs. SADIO ALI said that there was clearly some regard for the legitimate interests of certain minorities, particularly the indigenous pygmy population of the east and the south. According to the World Directory of Minorities, however, three ancient peoples, the Baka, Gyeli and Tirkar, commonly referred to as pygmies, eked out a precarious livelihood in the shrinking forests of the south-west and south-east; both the Government and the Catholic Church had tried to sedentarize them in pilot villages and forced

settlements along roadways; and local farmers, logging companies and plantations paid them less than the legal minimum wage and made inroads into their forest environment. That violated articles 3 and 5 (e) (i) of the Convention. In most cases, the children of forest nomads had no access to education. More information was needed on their situation.

8. Although the report stated that all human beings, without distinction, possessed certain inalienable and sacred rights, nowhere did it refer to racial discrimination within the meaning of article 1, paragraph 1 of the Convention, and the language it used was more restrictive than that of the Convention. Could the delegation provide an explanation?

9. How were the differences between the 4 million northerners, who were mainly Muslims and politically more prominent, and the southerners, or Bantu peoples, who outnumbered the Muslims three to one, being overcome? Resentment was reported to persist over past raids by the Fulbe, or Muslims, against the Kirdi, or non-Muslims. There were also different legal and educational systems in the two parts of the country. The English-speaking community claimed that the Government was exploiting natural resources but did little to improve living conditions. The surge in support for the secessionists apparently had more to do with economic decline than with any real cultural differences. According to The Independent of London, Cameroon had the same poverty level as in 1964, with high unemployment, inflation and deteriorating social services. The English speakers were calling for a federal State, while the francophones wanted a unified State. How were those demands being reconciled?

10. She asked about the structure of the decentralized territorial communities called for under the revised Constitution, which would promote greater participation by citizens in local affairs.

11. Mr. VALENCIA RODRIGUEZ said the multi-ethnic and multi-religious nature of Cameroonian society made monitoring of the Convention even more important. Were there any measures to maintain and promote the use of aboriginal languages by the different ethnic groups, especially the pygmies? He welcomed the information contained in paragraph 24 on ratification of international human rights instruments and the importance placed on human rights by the Constitution, which cited the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights.

12. He also commended the inclusion in the report of information on the scope of international human rights instruments but asked for examples of how those instruments were applied internally, and for additional information on the National Committee on Human Rights and Freedoms. While he was happy to learn of the measures taken on behalf of the pygmies, more needed to be done, and the Committee should be kept informed, particularly with regard to agricultural training, health care, education, employment and housing.

13. The measures adopted under article 4 did not fully meet its requirements, as they were limited to publications in the press, whereas the obligation under the Convention was much broader and included the prohibition of all types of racist manifestations or incitement to racial hatred. Had there been any legal cases involving racist associations or organizations? He

would like to see the text of articles 241-242 of the Penal Code, as the information in paragraph 33 of the report referred only to guaranteeing access to a public place or an occupation. Were there any examples of the application of Act No. 90-56, on freedom of assembly and association, to the prohibition of racist political parties?

14. The information on article 6 of the Convention was insufficient. According to the report, discrimination based on race or religion was seldom found in the Cameroonian social mentality, but measures were still required under article 6. Article 242 of the Penal Code did not fully meet the requirements of articles 4 or 6. He would also appreciate more information on initiatives taken to welcome the rather numerous foreigners (paragraph 59).

15. Mr. SHAHI asked whether the 50,000-strong pygmy population was considered indigenous, and if so, which were the minorities among the 230 ethnic groups? He would also like statistics on the representation of the major groups in the various branches of government. How much was the gross domestic product in dollars? The 4 per cent inflation rate compared favourably with other developing countries.

16. Apart from the 46,694 mainly Chadian refugees, who were the other 4 million foreigners in Cameroon? They accounted for more than one quarter of the entire population. The report mentioned 669 Rwandans, 255 Burundians and 43 Zairians. Had those refugees fled their countries of origin because they had committed crimes? Were they subject to extradition? Particularly in view of the newly established International Criminal Tribunal for Rwanda, any guilty parties from that country against whom there was evidence should be extradited or handed over to the Tribunal. He would welcome further information, since putting an end to impunity was an important way to stem the genocide in the Great Lakes region of Africa.

17. Although international human rights instruments took precedence over domestic law and could be invoked before the courts, criminal prosecutions on violations of those instruments required national legislation. Torture had been penalized, so why not the offences under article 4, and why not the human rights violations based on racial discrimination under article 5? Articles 241-242 of the Penal Code were the only ones that concerned discrimination and were inadequate. The provisions described in paragraphs 33, 48, 49 and 50 of the report did not fully comply with article 4.

18. The Government was to be commended for the special concrete measures being taken for the most disadvantaged group, the pygmies. More information was needed on whether they were entering into the mainstream and participating in the political process and public services as a result of those measures. Existing legislation seemed to cover most of the rights under article 5, but it was difficult to evaluate the situation without further information on actual cases in which discrimination had been punished.

19. The CHAIRMAN, speaking in his personal capacity, said that according to the delegation, although the legislation which penalized insulting or offensive behaviour covered insults, offences or crimes committed on grounds of race, racial grounds would be an aggravating circumstance conducive to more

severe punishment. If that statement were taken in conjunction with paragraphs 47-50 of the report on the penalization of associations or organizations disseminating racial superiority or hatred, perhaps the two together would largely meet the requirements of article 4. He asked for the Committee's views on the question.

20. Mr. van BOVEN said that he, too, wished to raise several questions concerning the pygmy group. First, he wondered whether the pygmies could be considered an indigenous people for the purposes of the Convention. In the absence of a definition of indigenous people, it was necessary to characterize such groups on the basis of their lifestyles. In 1997 the Committee had adopted General Recommendation XXIII on the rights of indigenous peoples, paragraph 4 (c) of which stated that indigenous peoples should be provided with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics. It appeared, however, that the pygmies' livelihood was being endangered by forest development, and he wondered to what extent their way of life was being taken into account in development projects. Paragraph 39 of the report referred to the "Socio-economic integration of the Baka/Bakola" project, with its multifaceted strategy. He would like to know what was meant by the strategy of stabilizing the pygmies in their camps. Referring to the requirement contained in paragraph 4 (d) of the Committee's General Recommendation, he asked to what extent representatives of the pygmies had participated in the design and implementation of the aforementioned project. He had read in the same source as Mrs. Sadiq Ali of attempts by the Government and the Catholic Church to sedentarize the pygmies, and of the exploitation to which they were often subject, which was another matter of concern.

21. Regarding the Chairman's question concerning article 4, Cameroon was in the company of many States Parties, including the United Kingdom, in considering racism to be an aggravating factor when applying the regular legislation. Further information was needed on Cameroonian legislation and practice on that point, which he hoped the delegation would convey to the Committee either at the current session or in the next report.

22. Concerning article 6 of the Convention, the report stated that victims of racial discrimination could apply to the competent court for compensation, but that the matter seldom arose because of the infrequency of discrimination in Cameroon. He pointed out that victims of discrimination, particularly those on the margin of society, often did not know how to use the court system to claim compensation, which was why compensation schemes should be organized by the authorities.

23. He welcomed the fact that Cameroon was a party to the Optional Protocol to the International Covenant on Civil and Political Rights. As the Optional Protocol contained a provision similar to the one in article 14 of the Convention, he wondered whether Cameroon was considering making the declaration concerning individual communications under article 14.

24. Like other members he had noted with interest the establishment of a National Committee on Human Rights and Freedoms, mentioned in paragraph 29 (f) of the report, which satisfied the Committee's General Recommendation XVII. He looked forward to receiving information on that Committee's activities.

25. The report stated that there was little need for information on racial discrimination, and no case law to report, because of its infrequency in Cameroon. Because the Convention also had a role to play in preventing discrimination, however, its requirements should be met in both legislation and practice, and he was confident that the State Party would provide such information on the next occasion.

26. Mr. DIACONU observed that it was important for development to proceed with the consent and participation of the pygmies. The transition from hunter-gatherer to farmer was not an evil in itself. All of mankind had made that transition, which had to be considered the normal course of development.

27. Paragraph 54 of the report referred to Act No. 19-56 of 19 December 1990 concerning political parties, article 9 of which prohibited any party that advocated discrimination. To meet the Convention's requirement of legislation which explicitly made acts of racial discrimination a punishable offence, the prohibition of racial discrimination should also apply to individuals and groups that did not constitute political parties.

28. The CHAIRMAN, speaking in his personal capacity, said he wondered whether the transition of which Mr. Diaconu had spoken was an improvement over the pygmies' present lives. He invited the members to reflect on whether the developed world should impose its own way of life rather than seek to understand others'.

29. Mr. de GOUTTES (Country Rapporteur) referred to the question raised by the Chairman, whether the existence of an "aggravating circumstance" factor would be considered sufficient to meet the obligation under article 4. According to a literal interpretation of that article, States Parties were required to enact legislation explicitly making acts of racial discrimination punishable offences in their own right, which was what the Committee had always requested of them in the past. Were its thinking to evolve to the point of accepting the "aggravating circumstance" factor as sufficient to meet the requirement in article 4, two conditions would have to be met. First, there would have to be specific texts to that effect in the domestic legislation, and, second, there would have to be instances in which such a factor had been applied to specific cases. If both conditions were met, the Committee might consider the subject further.

30. The CHAIRMAN thanked Mr. de Gouttes for his explanation and said that the delegation's remarks on article 4 would nevertheless be taken into consideration.

31. Mr. Diaconu took the Chair.

32. Mr. YOUNSI (Cameroon), replying to the questions raised, said that the pygmies were, historically speaking, the initial inhabitants of Cameroon. There were approximately 50,000 of them scattered throughout the country. The Government's policy towards the pygmies was to be seen against the background the pygmies' lifestyle. The Government attempted to comply with the constitutional provision of equal opportunity for all to participate in what it regarded as development. That was a psychological and philosophical question and concerned the nature of happiness; it might well be wondered

whether the Government's view of development actually made people happier. There was also an economic issue involved, as many speakers had noted, in that forest development was endangering the pygmies' lifestyle as hunter-gatherers. The Government sought to involve the pygmies in development through the right to vote, participation in decision-making and generally by making them aware of their status as citizens within Cameroon. In so doing, however, it risked disturbing the pygmies' simple lifestyle. Noting, for example, that many pygmies had been exploited on coming into contact with the Bantu, the Government had concluded that it was necessary to protect them. To that end, it attempted to sedentarize them through agriculture. Its policy was aimed at providing them with training in new techniques and helping them to deepen their knowledge of themselves and participate in decisions concerning them.

33. Like all cultures in Cameroon, the pygmy culture was fully preserved. Each pygmy group had the right to speak its own language in addition to French, English or both and to practise its own customs. The Government considered each culture to be a source of wealth and believed that through a host of small cultures a national sensibility could be built.

34. Concerning the obligation under article 4 of the Convention, he said that a country in which 230 ethnic groups coexisted was less subject to racism than one in which only two or three groups existed. In fact the word "racist" had been imposed on Cameroonians, whose culture was based on respect for others. The word "enemy" was the same as the word "foreigner" in some cultures, a concept that was not to be found in the African mentality.

35. Certain ancient practices had perhaps had a discriminatory connotation. For example, in some tribes if a man had been unable to marry, he had tried to abduct a woman from another. Today, that was a punishable offence. Legislation on defamation also protected against discrimination; under the Criminal Code, slanderous statements about other ethnic groups was an offence.

36. Turning to the question of nomadic groups, he observed that farmers' quarrels with nomadic groups who grazed herds on land on which crops had been planted could not be attributed to racism or tribal rivalry. Such nomadic groups did not send their children to school because they were constantly on the move. As in the case of the pygmies, a policy was needed to enable their children to receive an education and preserve their culture at the same time. One plan had involved storing grass which could be fed to the animals during periods of shortage, so that the nomads would not need to leave in search of pasture for their herds.

37. On the question of how the other ethnic groups participated in the decision-making process, he pointed out that the Cameroon National Assembly currently had 180 representatives. Under national legislation, wherever the ethnic composition of the population was mixed, electoral rolls must reflect that circumstance. A party which had not taken that into account had had its electoral roll invalidated. Thus, representatives of the various tribes were represented in the Assembly. Needless to say, that did not mean that there was one representative for each of the 230 ethnic groups. The same situation applied at local level: the town council must reflect the ethnic make-up of the population.

38. On the subject of religion, Cameroon respected the major religious celebrations of each community. That was another example of his Government's endeavours to promote the well-being of the population.

39. The CHAIRMAN said that the Committee was looking forward to the continuation of Cameroon's replies to its questions at the next meeting.

40. The members of the delegation of Cameroon withdrew.

Second to seventh periodic reports of Cambodia (CERD/C/292/Add.2)

41. At the invitation of the Chairman, Mr. Suon (Cambodia) took a place at the Committee table.

42. Mr. SUON (Cambodia), introducing his country's report, said that in view of the upheaval caused by more than 20 years of war, it had been difficult for Cambodia to restore strict respect for the law and human rights, but his Government was making every effort to do so. After the elections of July 1998, once Cambodia had a government with a single prime minister, it would be in a position to set out on the right path.

43. The CHAIRMAN observed that in their oral presentations, delegations normally reported at some length on recent events which had transpired since the drafting of their country's report.

44. Mr. YUTZIS (Country Rapporteur) said that he welcomed the resumption of the dialogue with Cambodia. He had deep compassion with the Cambodian people for the suffering it had endured. It was to be hoped that the elections to which the representative of Cambodia had referred would enable the political, economic and social situation to improve.

45. Three years after the departure of the United Nations Transitional Authority in Cambodia (UNTAC), the overall human rights situation in Cambodia continued to give cause for concern, as was borne out by the report of the Special Representative of the Secretary-General for Human Rights in Cambodia of October 1997 (A/52/489) and Commission on Human Rights resolution 1997/49. To cite just one example in the general area of human rights violations, it was reported that a Vietnamese woman, Lam Heung, had been detained without charges, beaten and threatened with execution. She had received no medical attention while being held, and her assertion of having been tortured had been rejected on the ground that she had already admitted her guilt.

46. As to the question of racial discrimination in the country, he would focus on the situation of the Vietnamese minority, which faced increasing marginalization. The report itself conceded in paragraphs 20, 22 and 33 that there was a problem in that area.

47. Information from a number of studies indicated that the Vietnamese were regarded as an ethnic and not an immigrant group. The Vietnamese ethnic group appeared to occupy the lowest rung in society, together with persons of mixed Cambodian and Vietnamese extraction.

48. Many, although not all, Vietnamese were fishermen. According to his information, the Khmer considered that the Vietnamese had cornered the market. Tensions associated with fishing had been responsible for the 1994 massacre in Peam So, when Vietnamese had crossed land to fish in a leased area and had been brutally attacked by former Khmer Rouge employed on the land. That was acknowledged in paragraphs 22-24 of the report. It was disturbing that, as in many other parts of the report, the blame had been placed entirely on the Khmer Rouge.

49. Concerning prostitution, he noted that most prostitutes in urban areas in Cambodia were Vietnamese. Vietnamese women were accused of spreading AIDS in the Cambodian population. There were many legends surrounding Vietnamese women which increased the prevailing paranoia about the threat they posed. It was said that Cambodia could be destroyed by Khmer who associated with Vietnamese women. There had been systematic killings of Khmer men married to Vietnamese women. He noted that free choice of spouse and marriage was provided for by law (paragraphs 98-100 of the report) but that the exercise of that right was impeded in practice (paragraph 101).

50. Regarding the administrative situation, prior to the previous elections the residence permits of many Vietnamese had been withdrawn. That was reportedly because the administration had not wanted to be regarded as being lenient towards the Vietnamese. In October 1995, the residence documents of all Vietnamese living in a village of the province of Kandal had been confiscated. In another village in that same province, such documents appeared to have been drawn up by the police and sold at a high price. If in Takeo (municipality of Romin) immigration papers were free of charge and in Kampong Chhnang the ceiling on such papers had been set at 200 riels, why was the average cost in other districts 5,000 riels per person and between 10,000 and 50,000 per family? In that same region, a Vietnamese woman had reportedly paid 5,000 riels per document, 3,500 riels for the photograph and 5,000 riels to the police, and had subsequently been fined an additional 50,000 riels on a technicality. A young Cambodian woman of mixed blood had paid 5,000 riels for nationality papers she had never received, had had her title deeds confiscated and had been unable to leave her village. He asked about a report that in Kampong Iuong Vietnamese had to buy their documents from the municipal police, which were then only valid for a short period, after which they had to pay a fine of 3,000 riels. Could the representative of Cambodia comment on all those allegations, particularly in the light of article 5 (d) (i) and (ii) of the Convention on freedom of movement.

51. In connection with article 5 e (iii) of the Convention, he said that like many Cambodians, the Vietnamese had lost almost all their possessions during the Democratic Kampuchea period. Many Vietnamese who had previously lived on the land were now living on water. In one village established in the 1980s, the police had seized titles to property two years previously on the pretext of updating them and had never returned them to their owners.

52. On 5 December 1996, 19 persons of Vietnamese origin had been expelled on charges of cooperating with the People's Action Party, a Vietnamese pro-democracy organization based in the United States, and had been handed over to the Vietnamese police. Ten of them had requested political asylum. In that connection, the Special Representative of the Secretary-General had

pointed out that Cambodia was a State party to the 1951 Convention relating to the Status of Refugees and was therefore prohibited from expelling or returning refugees lawfully in their territory.

53. According to paragraph 107 of the report, while freedom of thought and conscience was not yet specifically regulated, it was not prohibited by law. The Cambodian authorities must introduce legislation to protect freedom of thought, conscience and belief, particularly in view of the problems encountered by persons of Vietnamese origin who openly expressed their cultural identity. Khmers reportedly took retaliatory action against persons using the Vietnamese language, listening to Vietnamese music or wearing traditional costumes during their festivals.

54. There had been frequent massacres of Vietnamese living in Cambodia. In March 1993, the Tonle Sap assault had been followed by a mass exodus of Vietnamese to Phnom Penh. The report of the Special Representative of the Secretary-General for Human Rights in Cambodia (A/49/635 and Add.1), published in 1994, documented attacks and killings, notably in the village of Peam So in the district of Saang, Kandal. On 7 January 1997, an explosive device had been found in an area frequented by persons of Vietnamese origin close to the residence of the military attaché of the Vietnamese Embassy.

55. Material constituting incitement to racial hatred had been broadcast by Khmer Rouge radio and published in the Khmer press.

56. On 18 November 1997, the Chairman of the Service Committee for the Vietnamese People, who had demonstrated peacefully for greater freedom for the Vietnamese, had been deported to Viet Nam, where he was still in prison.

57. Drunken soldiers had threatened the inhabitants of a Vietnamese village close to Phnom Penh, warning them to return to Viet Nam. They had forced the community leader to report the number of Vietnamese families living in the village and had accused him of harbouring thieves and prostitutes. Although the perpetrators of many such acts were known, they had never been brought to justice.

58. The tax payable by fishermen was frequently used as a pretext for extortion. The police seized the papers of local fishermen and demanded bribes for their return. Unauthorized persons demanded payment for fishing permits, sometimes even detaining their victims. The Cambodian State was thus being deprived of legitimate resources in a climate of impunity, violence and death threats.

59. The Vietnamese school enrolment level was low and persons of Vietnamese origin were denied access to higher education. The Vietnamese school in Tonle Sap was operating without a legal permit. Under current Ministry of the Interior regulations, no school could offer instruction in the Vietnamese language.

60. According to a study conducted by the Phnom Penh Centre for Higher Studies, ethnic identity was based, inter alia, on a shared collective memory. The denial of the existence of the Vietnamese by the Khmer majority under the Khmer Rouge regime had stemmed from a desire to promote the myth of racial

purity. Persistent reluctance, however marginal, to admit the existence of a common heritage implied the rejection of one of the most significant developments of recent history and an unwillingness to share the experience of survival with the Vietnamese community.

61. The Cambodians basically viewed the Vietnamese as immigrants. Amendment of the immigration laws to provide for jus solis was one way of promoting a spirit of tolerance and complementarity.

62. The Chams, a people originally from central Viet Nam, were for the most part Muslims and spoke a Malayo-Polynesian language. They had allegedly sought refuge in Cambodia from persecution by the Vietnamese and were therefore held up as an example of what lay in store for the Khmer if they failed to defend themselves against the Vietnamese. However, the Chams were not allowed to teach their history or preserve their sense of unity as a people.

63. The 17 indigenous groups in Cambodia had no legal status. Their special relationship with the land and dependence on farming had not been recognized by the authorities. Licences had been granted for the construction of industrial estates on ancestral lands. The Government was cooperating with the National Mekong Committee and the Asian Development Bank on a project to build dykes that were likely to flood indigenous land. The communities concerned had not been consulted and were not informed of local development plans. If they tried to resist, they were intimidated by the residents of legal and illegal settlements, who were protected by the military and the police.

64. Cambodia could not continue to operate under transitional legislation. It was time to enact constitutionally definitive laws, particularly against racial discrimination. According to paragraph 69 of the report, there had never been any prosecutions for racial discrimination under Decree-Law No. 2 of 1980. That was unacceptable and led him to conclude that the provisions of article 7 of the 1995 Press Act mentioned in paragraph 71 had also been ignored in practice.

65. The Government must actively assume its legislative and practical responsibility under the Convention. The assignment of blame for all shortcomings to the Khmer Rouge, as, for example, in paragraphs 21, 22, 44, 48 and 53 of the report, was unacceptable.

66. Mr. de GOUTTES said that, while the report had been prepared in accordance with the guidelines and provided interesting information on minorities, the horrors of the Khmer Rouge regime and existing legislation and objectives, it failed to describe practical action to achieve those objectives. In particular, there was no information regarding the implementation of article 61 of the Transitional Criminal Act and Decree-Law No. 2 concerning racial discrimination. According to paragraph 54, work was under way on a draft Criminal Code and a draft Code of Criminal Procedure. What stage had been reached in that process? Lack of funds seemed to have impeded the implementation of the development programmes on behalf of ethnic groups described in paragraphs 57 to 59.

67. According to paragraph 18, a Commission on Human Rights and Receipt of Complaints had been set up in 1993. He asked what results it had achieved to date.

68. According to paragraphs 20 and 33, the long history of conflict between Cambodia and Viet Nam was responsible for feelings of deep hostility to the Vietnamese among the Khmer. According to paragraph 75, Khmer Rouge radio continued to sow hatred and urged Cambodians to use violence to drive the Vietnamese out of the country. To a lesser extent, the Chinese community seemed to be the target of xenophobia. Such latent racial or ethnic hatred was an extremely worrying phenomenon which the Government must address as a matter of urgency. In that connection, he regretted that, according to paragraph 45, the case against one of the culprits arrested following the shooting incident in the Vietnamese village of Peam So in 1995 had been dismissed by the court in Kandal.

69. According to paragraph 71, the journalists' association was required to draw up its own code of conduct which should prohibit incitement to racial discrimination. Had any such code of conduct been prepared?

70. Paragraph 76 claimed that many associations and organizations were engaged in activities aimed at making Cambodians aware of their rights and duties as citizens. What were the main organizations involved and did they receive assistance from the Government?

71. Paragraphs 160 to 166 described interesting developments in educational reform, culture and dissemination of human rights instruments. What had been achieved to date under those programmes?

72. Mrs. ZOU DECI noted that many Cambodians of Chinese and Vietnamese origin who had been living in the country for several generations still had the status of foreign residents. How did the feelings of xenophobia towards them manifest themselves, for example in lawsuits or acts of violence? Were the authorities impartial when dealing with such cases or did they adopt a different attitude towards nationals and foreigners? Could long-term Chinese and Vietnamese residents in Cambodia hope to acquire Cambodian nationality? Were there different criteria of eligibility for different nationalities?

73. In cases of mixed marriage between Chinese residents and Cambodians, did the children acquire their nationality from the father or the mother? Did the children of such marriages suffer from discrimination?

74. The CHAIRMAN, speaking as a member of the Committee, asked whether any of the 100,000 Vietnamese and 50,000 Chinese resident in Cambodia had acquired citizenship. Were they all recent immigrants or had they been resident there for decades or even centuries? Had they never been citizens, even before or during the Democratic Kampuchea regime? He feared that a great number of people were being deprived of political and other rights because their status remained unclear.

75. The report gave no examples of how existing legislation had been interpreted in the courts. According to paragraphs 67 and 68, anyone resorting to violence or damaging property with the aim of inciting racial

discrimination was punished under articles 7 and 8 of Decree-Law No. 2 but the text of the articles contained no explicit reference to racial discrimination.

76. Article 31 of the new Constitution prohibited discrimination on a number of grounds, including "origin". What type of origin was meant? Article 1 of the Convention referred specifically to national or ethnic origin.

77. He disagreed with the statement in paragraph 14 that Cambodia's political position as a neutral, non-aligned State implied that there was no racial discrimination. Specific laws and measures outlawing racial discrimination must be adopted before the country could make such a claim.

The meeting rose at 6 p.m.



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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1267th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 17 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (continued)

- Tenth to fourteenth periodic reports of Cameroon (continued)
- Second to seventh periodic reports of Cambodia (continued)
- Draft concluding observations of the Committee on the fourteenth periodic report of the Russian Federation

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Tenth to fourteenth periodic reports of Cameroon (CERD/C/298/Add.3)

1. At the invitation of the Chairman, the Cameroonian delegation resumed its place at the Committee table.
2. Mrs. SADIO ALI said she would like further information concerning the situation of the Pygmies employed by foresters, who apparently received salaries that were below standard. She would also like information on the conditions of forestry work.
3. Mr. EBAN OTONG (Cameroon), said that the National Committee on Human Rights and Freedoms, launched in 1992, had begun its programmes with the broad support of the Government, the diplomatic missions, non-governmental organizations (NGOs) and foreign associations. It had subsequently taken action, throughout the nation's provinces, to inform the population of its rights. The Commission on Information, established within the framework of that committee, had organized seminars, which were the best means of disseminating the principles of human rights.
4. The Committee had received more than 2,500 complaints relating to instances of violations of human rights and freedoms; it had visited prison establishments, gendarmerie brigades and police stations, and it had observed elections. The Committee, which included representatives of non-governmental organizations (NGOs), worked in conjunction with many NGOs, among them in particular the Cameroon Anglophone Movement, Union du monde des droits de l'homme, Association de lutte contre les violences faites aux femmes, Agora, Africa Watch International, Main tendue à la personne en détresse, Amnesty International, Ligue pour l'éducation de l'enfant et de la femme, and the International Federation of Human Rights. An intensive information campaign had been undertaken to promote those programmes.
5. The training of law-enforcement officers fell not only to the Committee, but also to Government authorities and other bodies, according to a policy of decentralized cooperation. A seminar had been held in Yaounde on 5 February 1998 for the training of prison staff.
6. The first article of Act No. 90/052 of 19 December 1990 concerning freedom of social communication recalled that freedom of the press was constitutionally guaranteed. The Act abolished censorship but guaranteed the protection of morality and public order, which were universal principles of the rule of law. The arrests of journalists and the suspension of various media which had been mentioned were not arbitrary: they had resulted from the implementation of Cameroonian laws and regulations, and the cases were being examined by the courts. The accused parties had tried to exercise their freedoms by disregarding those of others. In the case at hand, Mr. Njawe had written an article which encroached on someone else's privacy.

7. The independence of the judiciary was guaranteed and remedies were available to anyone who believed that his rights had been violated.

8. Cameroon was a democratic State whose legal system incorporated all international human rights instruments, and the authorities were responsible for protecting the freedoms of all. Cameroon sought harmoniously to reconcile the interests of its citizens with the protection of individual freedoms. Unfortunately, news reports on freedom of the press in Cameroon often distorted the facts and tended to focus on individuals who were almost invariably endangering values enshrined in the Constitution and the domestic legislation.

9. As for the supposed opponents of the regime who were reported to be illegally detained by the traditional chiefs, the Lamibés, they were in fact lawbreakers who had been arrested with the help of the chiefs in support of the authorities and detained in their palaces as part of a campaign against organized crime. The lawbreakers were immediately turned over to the judicial authorities. The report on those arrests merely mentioned facts without offering any real evidence; he defied anyone to give the names of any dissidents detained in that manner.

10. With regard to the strike that had been threatened in 1996 following the appointment of Government representatives, the Communes Act provided that Government officials should be placed in charge of communes operating under a special regime. That measure therefore was not discriminatory, but simply applied the law. All the municipal councils concerned had in fact resumed normal operations.

11. The draft legislation concerning the establishment of decentralized authorities under the new Constitution, was in the process of being finalized and would be presented to the National Assembly during its forthcoming sessions, in June, November or March.

12. Living conditions in Cameroonian prisons had always given rise to tendentious remarks, which were often wide of the mark. In 1992, Cameroon had launched a broad reform with a view to improving the lives of prisoners throughout the country. Under Organic Decree No. 92/052 of 27 March 1992, prisoners were granted the right to a balanced, adequate daily food ration, made up of local products and conforming to their religious requirements. Detention centres were equipped with infirmaries. In practice, however, certain places might run into problems of food or medical supplies, as a result of climatic constraints and conditions. That should not be interpreted as a deliberate intention on the part of the Government to practice discrimination of any kind, in particular since supplies were worked out purely according to the number of prisoners and not to the nature of their sentences.

13. Mr. EKOU MOU (Cameroon), replying to allegations that members of the tribe of the President of the Republic, Mr. Biya, occupied key Government positions, stated that only one minister fitted the description. The Secretary-General of the President's Office was of Peulh origin, and the Defence Minister of Sudanese origin. Those examples showed that such allegations were simply meant to tarnish the country's image.

14. With regard to the Rwandans accused of genocide, whose extradition had been requested by Belgium, Rwanda and the International Criminal Court, the Cameroonian Head of State had turned them over to the Court, in conformity with international law. The Head of State had done so because there were no judicial guarantees in Rwanda and because the death penalty was applied in that country.

15. Immigrants came to Cameroon from the five continents and included Indians, Pakistanis, Greeks, Africans, Europeans and Americans. For example, the wholesale industry was in the hands of Asians and Lebanese. Despite the border dispute between Nigeria and Cameroon, Nigerians were able to conduct business undisturbed. By contrast, the way Cameroonians were treated in Nigeria was another story. Foreigners holding valid residence permits could reside in Cameroon without difficulties, but many had no permits because of the artificial borders inherited from colonial days. How was it possible to distinguish between citizens from different countries who belonged to the same ethnic group or the same family?

16. With regard to the relationship between Muslims and the non-Muslim Kirdis from the north of Cameroon, a question raised by members of the Committee, no religion took precedence over any other in Cameroon. Moreover, the Kirdis, who were allegedly threatened, were represented at all levels of Government.

17. At the opening of the session, the Chairman of the Commission on Human Rights, citing the Secretary-General, Mr. Kofi Annan, had stated that humanitarian organizations should substantiate any allegations they made. In his view, international relations depended on mutual respect between States and on the publication of plausible information. Humanitarian fiction was best avoided. Since 1990, the United States Department of State, the International Federation of Human Rights and Amnesty International had been repeating their allegations, with no solid foundation. The Government of Cameroon wondered whether humanitarian organizations ever cared about the widows and orphans and all those killed by the so-called dissidents, who were in fact no more than common criminals.

18. It was, moreover, sometimes extremely difficult to acquire refugee status. Thus nationals from the Republic of the Congo currently in Cameroon were still waiting to be recognized as political refugees by the United Nations High Commissioner for Refugees (UNHCR).

19. Indigenous languages were promoted by the media, in particular the public radio and television services. French and English, however, remained the official languages as well as the principal means of communication. All Cameroonians who completed primary school knew one of those languages, and usually tried to speak both.

20. Lastly, a question had been raised with regard to deforestation and its impact on the Pygmies. Cameroon had a law governing forestry, and the Ministry of the Environment was working with the World Wildlife Fund and the Institut international des bois tropicaux of Montpellier in an effort to ensure the protection of that national heritage and to rationalize its use.

21. Mr. YOUNSI (Cameroon), Director of Legislation at the Ministry of Justice, said in conclusion that his delegation had greatly appreciated its stimulating dialogue with the Committee. The members' observations and questions bore witness to the interest taken in matters covered by the report.

22. In particular, the Committee had convinced his delegation of the need to incorporate in the Penal Code the offences specified in the Convention in order to give its provisions full legal effect. He promised to bring the matter to the attention of the appropriate government authorities.

23. Members of the Committee had taken note of the Cameroon Government's efforts to improve the situation of certain ethnic groups and to encourage them to participate actively in the life of the nation, while at the same time preserving their own identity. The Government was aware that differences between groups in terms of education and living standards could give rise to feelings of superiority complexes in some groups and inferiority in others, which could eventually lead to discrimination. In order to resolve that problem, it had adopted a policy which sought to achieve a balance and to eliminate differences wherever they occurred, so as to promote the development of a truly "Cameroonian identity" that benefited fully from the nation's ethnic diversity. The fact remained, however, that the Cameroonian authorities were limited by budgetary constraints in implementing their human rights protection programme in general and that designed more specifically to combat all forms of discrimination. The strategic help proposed by the Committee with a view to overcoming those difficulties had been greatly appreciated.

24. Lastly, his delegation noted that the Committee had requested further information on a number of points, and especially on everything relating to the activities of the National Committee on Human Rights and Freedoms. It would make sure that the request was duly taken into account in the next report.

25. Mr. DE GOUTTES (Country Rapporteur), summing up the debate, welcomed the presentation of the fourteenth periodic report of Cameroon, incorporating the last five overdue reports, and noted that the document had been prepared in conformity with the Committee's guidelines. He also welcomed the presence of a particularly cooperative delegation, whose excellent oral explanations had helped towards a better understanding of the country's specific features.

26. The Committee had taken a very positive view of the information provided in the report on the composition of the population, socio-economic and cultural indicators, the legal and institutional framework for the protection of human rights, and the role of the National Committee on Human Rights and Freedoms.

27. On the other hand, it had felt that the information provided concerning the implementation of articles 4, 5, 6 and 7 of the Convention was still inadequate.

28. With reference, in particular, to the subject of ethnic minorities, the Committee had expressed the wish that in its next report the State party should furnish updated information concerning the preservation of the rights

of indigenous populations, especially Pygmies and nomadic and other minorities, as well as the situation of the 4 million foreigners living in Cameroon.

29. Having considered the question of whether the Cameroonian Penal Code covered all acts of racial discrimination referred to in article 4 of the Convention, the Committee took note with satisfaction of the delegation's statement to the effect that it would advise the authorities of the need to review the country's penal laws with a view to supplementing them in that regard.

30. It was also desirable that the Cameroonian Government should, in its next report, furnish judicial data and statistics concerning complaints, prosecutions, convictions and decisions on compensation arising from acts of racial or ethnic discrimination.

31. The Committee would also like to receive information concerning measures taken to promote training in human rights for law enforcement officers, to encourage the activities of NGOs and associations combating racism, and to ensure the dissemination among the public of the provisions of the Convention, the periodic reports of the Government and the conclusions of the Committee. Lastly, the Cameroonian Government should indicate whether it envisaged accepting the amendment to paragraph 6 of article 8 of the Convention and making the optional declaration referred to in article 14.

32. The CHAIRMAN announced that the Committee had concluded the consideration of the tenth to fourteenth periodic reports of Cameroon.

33. The Cameroonian delegation withdrew.

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

Second to seventh periodic reports of Cambodia (CERD/C/292/Add.2) (continued)

34. At the invitation of the Chairman, Mr. Svon (Cambodia) took a place at the Committee table.

35. Mr. van BOVEN said that the report submitted by the State party (CERD/C/292/Add.2), with a delay that was excusable in view of the difficulties the country was continuing to experience, was both well prepared and well presented. The Country Rapporteur, Mr. Yutzis, had analysed the report closely at the preceding meeting and he endorsed those comments.

36. Everyone was aware that Cambodia had lived through a real nightmare in the 1970s and that, for a variety of reasons, the United Nations and the international community had unfortunately remained impassive in the face of the atrocities committed. It had to be recognized that those responsible for the genocide in Cambodia were still unpunished.

37. As Mr. Hammarberg, the Special Representative of the Secretary-General for Human Rights in Cambodia, pointed out in his report (E/CN.4/1998/95, paras. 72 and 76), "No Khmer Rouge leader has been arrested or prosecuted by the Cambodian authorities. None of them has ever admitted guilt or even

apologized to the Cambodian people for his or her actions" ... "The lack of prosecution by the Government of past instances of serious human rights violations creates a climate of impunity and sends a negative signal to everyone in the society".

38. That having been said, the resumption of dialogue with the State party was to be welcomed. The report under consideration, prepared with the assistance of the United Nations Centre for Human Rights, while on the whole satisfactory was incomplete in a number of respects, while some of the assertions it contained invited scepticism. Thus it was stated in paragraphs 5 and 69 that there had never been any discrimination in Cambodian society and that no racial discrimination had ever manifested itself, which explained why there had never been any prosecutions on such grounds. If that were so, Cambodia would surely be an exception worldwide.

39. Fortunately, it was also stated in paragraph 18 that a Commission on Human Rights and Receipt of Complaints had been set up under the National Assembly. Recent information about the activities of that body would be very welcome.

40. Another question on which he would like to know more was that of ethnic minorities. At the preceding session Mrs. Zou had raised the question of respect for the fundamental rights of the long-established Chinese minority in Cambodia. What was the situation with regard to the Vietnamese minority, which, according to paragraph 29 of the report, also represented a very large group? Were ethnic Chinese and Vietnamese regarded as fully fledged citizens?

41. The report said nothing about the situation of minorities living in the highlands. Was that simply an oversight? Yet the aforementioned report of the Special Representative of the Secretary-General for Human Rights in Cambodia indicated in its paragraphs 147 and 149 that the highland peoples, living mostly in the north-eastern provinces of the country, made up about one per cent of Cambodia's population, that the identity of those communities, their culture and their traditional way of life were seriously threatened, and that the Government disregarded their presence and citizenship.

Mr. Hammarberg's conclusions on that score coincided with those formulated by the Committee the previous year in its General Recommendation No. 23, which the Cambodian Government would do well to consult.

42. The CHAIRMAN, rectifying a slight mistake made by the previous speaker, said that the Centre for Human Rights had helped Cambodia not to prepare its report but to establish the human rights dissemination and education programme for Cambodian officials.

43. Mr. VALENCIA RODRIGUEZ welcomed the presence of a representative of the Royal Cambodian Government, bearing in mind the extremely difficult circumstances prevailing in that country, which seriously hampered respect for human rights in general and the implementation of the Convention in particular. To remedy that situation, the Royal Government had had to seek the assistance of the Centre in establishing a human rights dissemination and education programme for Cambodian officials (CERD/C/292/Add.2, para. 4).

44. The existence of 17 tribes in Cambodia meant that the implementation of the Convention in that country had to be strictly monitored. In that connection the provisions aimed at ensuring the equality of all before the law and respect for the human rights enshrined in the Constitution were positive measures which the Committee should note with satisfaction. At the practical level, he wished to know what results the Commission on Human Rights and Receipt of Complaints and the national and international NGOs referred to in paragraph 18 of the report had managed to achieve and in what way they had contributed to a more comprehensive implementation of the Convention.

45. Paragraph 27 of the report, while stating that international covenants and conventions took precedence over Cambodia's domestic legislation, appeared to suggest at the end that the administrative authorities referred to those international covenants only in the absence of national legislation. Clarification on that point by the Cambodian representative would be welcome.

46. The Committee would be interested to know whether the Constitutional Council, referred to in paragraph 47, had had an opportunity to determine the unconstitutionality of any existing legislation which might promote racial discrimination against ethnic minorities. It would also be useful to have more information about the measures taken by the Government to prevent racial discrimination, given the statement in paragraph 53 that racial discrimination did not exist in Cambodia. With regard to the implementation of article 4 of the Convention, he noted that article 61 of the Transitional Criminal Act (para. 70 and subsequent), which focused principally on incitement to national, racial and religious hatred by the media, only corresponded to part of the scope of article 4 of the Convention. More information appeared to be necessary in that respect.

47. With regard to the protection of freedom of expression, paragraph 71, which stated that the Journalists' Association was required to draw up its own code of conduct with a view to prohibiting any publication inciting racial discrimination, gave the impression the Government had delegated its own responsibilities to the journalists. If the Journalists' Association did not prohibit the spread of racist ideas, that aspect of the Convention might not be respected.

48. It would also be useful for the Committee to know what steps the Government was taking to stop the activities of the Khmer Rouge, which continued to spread racial hatred (paras. 75 to 77), and to punish the culprits.

49. It had been disturbing to read in paragraph 146 of the report that right of access to and use of public places and services should be exercised in accordance with law and custom and should not infringe upon the rights of others. Was there not a risk that respecting traditions and customs might allow the emergence or latent practice of racial discrimination? The Government might provide some explanation in that connection.

50. It would be useful for the Committee to know what progress had been made in the consideration of a number of bills relating to the implementation of the Convention and the date envisaged for their adoption. It would also be

useful to know the content of the proposed laws, particularly the Nationality Act (para. 96), the law on succession (para. 105), the law on freedom of thought, conscience and belief (para. 107), the law governing the establishment of associations (para. 117), the law on the right to form and join trade unions (para. 124) and the law on the establishment of trade unions (para. 126).

51. Mr. AGHA SHAHI subscribed to Mr. Yutzis's analysis of Cambodia's report and endorsed many of the comments made by Mr. van Boven, particularly those relating to the climate of impunity, from which all those who had committed serious crimes in Cambodia continued to benefit. Since the Cambodian Government had sought the assistance of the United Nations in bringing those responsible before the courts and that the matter of their trial had been raised within the G.7, he asked the representative of Cambodia to inform the Committee of the measures which the Government intended to take to punish the perpetrators. What prospects were there in that connection?

52. Mr. SUON (Cambodia), Adviser to the Prime Minister, replying to the questions raised by Mrs. Zou and Mr. van Boven, said that the Cambodian Government facilitated the stay of foreigners wishing to work in Cambodia by granting them a residence permit to cover the planned duration of their work. A foreign woman married to a Cambodian could obtain Cambodian nationality and any children from the marriage acquired Cambodian nationality by virtue of jus solis. At the age of 18 those children could opt for Cambodian nationality on a definitive basis. There was no discrimination against the children of a marriage between a Cambodian citizen and a foreigner.

53. With regard to the attitude of the Cambodians towards foreigners, there was unlikely to be any xenophobia in respect of the Chinese or Vietnamese who had lived in Cambodia for a long time, since Cambodia applied the jus solis, which gave Cambodian nationality to their descendants. An immigration law was in preparation.

54. He had taken careful note of the constructive comments of Mr. Yutzis on the Cambodian report and had noted that they were intended to help the Cambodian Government improve the situation in the country, which required the restoration of peace. Those comments would be passed on to the Cambodian Government, which would study them closely.

55. Replying to a question by Mr. de Gouttes on the proposed Constitutional Council, he said that the Cambodian Government was endeavouring to establish that body with the constructive advice of the French Constitutional Council. A penal code was being prepared which should provide solutions to most of the problems raised.

56. The CHAIRMAN thanked the representative of the Royal Government of Cambodia for his replies to some of the questions raised by Committee members. The Committee would certainly take into account the difficulties with which Cambodia had to contend and should note with satisfaction the undertaking by the representative of Cambodia to ensure that the comments of the Members of the Committee were duly taken into account by the Government and reflected in Cambodia's next periodic report.

57. Mr. YUTZIS (Country Rapporteur) thanked the Cambodian Government for its effort in submitting its report to the Committee, thereby demonstrating its willingness to dialogue with the body responsible for ensuring the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.

58. The Committee should take note that Cambodia was beset by both political and cultural problems. In order to solve them, it was absolutely essential for it to establish the political stability needed to strengthen the System of government and put an end to the state of turbulence and civil war that prevailed there. Once it had done that, it would be in a position to dispense justice and to try the criminals in accordance with the law.

59. In that respect, the transitional legislation should be replaced by permanent rules if the stability of the nation was to be ensured and conditions favourable to the implementation of the Convention guaranteed. It would also be necessary to clarify some points relating to articles 2 and 4 of the Convention, in particular to amend the 1993 Constitution, which granted rights and freedoms only to Khmer citizens, and the Nationality Act. The 1996 Act, which provided that nationality applied exclusively to persons born of a Cambodian father and/or mother, took no account of the fact that it was often difficult for those concerned to prove that they fulfilled the necessary requirements and aggravated the position of some persons, such as the Vietnamese, who, unable to obtain either Cambodian or Vietnamese citizenship, became stateless. In that connection it would be useful for Cambodia to ratify the international instruments relating to stateless persons and refugees. It would also be useful for it to grant legal status to the 17 tribes living in its territory, as they were particularly vulnerable groups deprived of legal protection.

60. The Committee attached the greatest importance to racial discrimination against the Vietnamese in Cambodia; it was an explosive problem which came directly within its remit.

61. The cultural aspects of racial discrimination in Cambodia were linked to ancestral conflicts, which manifested themselves in such disturbing symptoms as the affirmation of the racial purity of the Khmers as opposed to the Vietnamese. In that regard the Committee had the authority to provide the Cambodian Government with advisory services which might help it overcome that serious problem.

62. The CHAIRMAN again thanked the Government of the Kingdom of Cambodia and said that the Committee had thus concluded its consideration of the second to seventh periodic reports of Cambodia.

Mr. Suon (Cambodia) withdrew.

Draft concluding observations* on the fourteenth periodic report of the Russian Federation (document distributed at the meeting, English only: CERD/C/52/Misc.27, future CERD/C/304/Add.43)

63. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the Committee needed to decide whether it would continue to present the concluding observations addressed to States parties in the old form, which was in several parts - A, B, C, D and E - or would use the simplified version proposed at the eighth meeting of the chairpersons of the bodies established under international human rights instruments (treaty bodies). As a convenience and in order to make the Committee's decision easier, he was submitting the draft concluding observations on the Russian Federation in both forms, the two versions (A and B) appearing jointly under the symbol CERD/C/52/Misc.27.

64. The CHAIRMAN said that the Committee was not bound by the decision of the chairpersons of the treaty bodies. It was free to decide for itself how it wished to present its concluding observations to States parties.

65. Mr. BANTON recalled that, at the Committee's previous session, Mr. Aboul-Nasr had himself suggested changing the presentation of the concluding observations, as other committees had done. In support of that point of view, he had drafted a proposal (CERD/C/52/Misc.24, English only) which followed the trend observed at the meeting of the chairpersons of treaty bodies. Their aim had been to assist the work of the States parties by targeting the concluding observations more precisely. Since it was not easy to give up a well-tried procedure, if the Committee did decide to make a change, several variations might be tried before a new version became established.

66. Mr. van BOVEN thought it was first necessary to have a clear idea of the actual purpose of concluding observations: they were the end results of the Committee's work, and although they served to facilitate the dialogue with States parties and to inform the General Assembly, it should not be forgotten that they were also a means of monitoring the situation in a country and that they reflected the changes which occurred in that situation between one report and the next. The Committee had already reduced the size of its reports and he was disturbed by the expressed desire to economize and rationalize still further. The current form was useful to the reader as it stood and it should be changed only after careful reflection.

67. Mr. NOBEL was in favour of flexibility, if only because the Committee might need to express itself at length and in detail on certain points and in certain cases, but might have only brief comments to make in other cases. Either option A proposed by Mr. Valencia Rodriguez, or option B, or any combination of the two would be appropriate.

68. The CHAIRMAN, speaking as a member of the Committee, drew attention to the terms of article 9, paragraph 2, of the Convention, by which the Committee should be guided.

* In two versions, Draft A and Draft B.

69. Mr. SHERIFIS said that it was of course necessary to economize and rationalize, but not at the expense of expressing the Committee's position. He pointed out that any decision taken by the Committee would have to be applied to all States parties, even if there was some degree of flexibility, so that any changes should be discussed at some length. The Committee might envisage devoting the necessary time to it at its next session, on the understanding that the decisions taken then would apply only in 1999.

70. Mr. GARVALOV said that, given the shortage of time and the importance of the decision, the Committee should be content for the time being to keep the existing pattern for its concluding observations, which had always enabled it to express its views clearly, including on specific aspects of its activities, such as those that came under item 6 of its agenda. He wondered, moreover, why the chairpersons of the treaty bodies wanted to make things easier for the States parties. The treaty bodies should take care that by adopting such an approach, they did not in fact refrain from criticizing the States whose reports they considered. Nothing should be allowed to detract from any treaty body's mandate. In that connection, it would be interesting to look at the most recent report of the chairpersons of the treaty bodies, since, although each was entitled to represent his own Committee, none of them could claim to represent them all.

71. Mr. DIACONU said that whatever solution was adopted for the presentation of the concluding observations, it should in no event impair the substance of the suggestions and recommendations addressed by the Committee to the States parties or to the mandate conferred upon it by the Convention. Nevertheless, it had to be admitted that the Committee's observations tended to be too long; that was largely due he thought to the Committee's effort to maintain a parallel and a balance between the part devoted to the principal subjects of concern and the part reserved for suggestions and recommendations. If those two sections, D and E, were combined, the substance of the Committee's message to the State party concerned would not suffer in any way. The Committee might opt for a transitional solution, but in the end it would be forced to follow the course he proposed, if only to save time.

72. The CHAIRMAN said that the Human Rights Committee had already opted for that solution.

73. Mr. YUTZIS pointed out that, contrary to what some of his colleagues implied, the current structure of the concluding observations was not properly speaking traditional. It had been deliberately designed to be brief, simple, systematic and precise. The aim had been to improve the dialogue with the States parties by expressing the opinion of the Committee as a whole on certain fundamental points. If States parties wanted to acquaint themselves with the details of the debates, they could consult the summary records.

74. He requested therefore that the decision on the future form of the concluding observations should be postponed to the next session, and he warned against the danger of confusing simple and simplistic and cutting down with cutting out, a risk that arose whenever too great an emphasis was placed on brevity. He did not think that combining parts D and E was a good solution. The time the Committee spent preparing the two sections was an investment rather than a waste.

75. Mr. SHAHI requested that the recommendations of the chairpersons of the treaty bodies be examined more closely before any decision was taken, since he did not feel it was urgent to alter the concluding observations' existing structure. The Committee already provided far less information than before in its reports, which now contained only its conclusions and recommendations. The more the Committee's recommendations and its dialogue with the States parties were targeted, the more they tended to concentrate on specific, not to say technical, issues; in trying to be too concise, one ran the risk of becoming too sibylline and discouraging the reader. Comparing variants A and B of the concluding observations on the Russian Federation submitted by Mr. Valencia Rodriguez, he noted that the simplified version was indeed much shorter than the original. In the latter, however, the part on factors and difficulties impeding the implementation of the Convention was limited to a few lines and the part on positive aspects to a few paragraphs, which seemed to him already to comply with the recommendations of the chairpersons of the treaty bodies. He was not convinced, therefore, that the current form needed to be altered, although he did not rule out the possibility.

The meeting rose at 1 p.m.

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations concerning the fourteenth periodic report of the
Russian Federation (CERD/C/52/Misc.27,* future CERD/C/304/Add.43) (continued)

1. The CHAIRMAN recalling the point raised at the previous meeting by the Country Rapporteur for the Russian Federation, invited members to resume discussion of the changes in the format of concluding observations proposed at the ninth meeting of persons chairing the human rights treaty bodies.
2. Mr. RECHETOV said that the Committee had developed an appropriate format for its concluding observations. If it did not always make a clear distinction between the different sections, that was due to insufficient consideration of the reports themselves. In any event, changes in the format for concluding observations should be based on the Committee's own deep convictions rather than the approaches taken by other committees. The Committee should not be accountable to governments or other treaty bodies. He would accept whatever the Committee decided, but stressed that it should avoid changing the format in the middle of a session.
3. Mrs. ZOU Deci agreed that no drastic changes should be made without careful consideration. The present format, however, left room for improvement. She did not object to combining the "Principal subjects of concern" and "Suggestions and recommendations" sections. The other sections could be retained or deleted according to the situation of each country.
4. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that he could accept either version of the concluding observations concerning the report of the Russian Federation; both had advantages and drawbacks. For that reason he was prepared to accept the suggestion that no decision should be taken at present.
5. The CHAIRMAN said that the members appeared to agree with Mr. Sherifis' suggestion to retain the current format for the Committee's next report to the General Assembly. Discussion would continue at the following session and a decision taken for application as from the March 1999 session. In the interim, the decision to combine sections (d) and (e) would be left to each country rapporteur.
6. It was so decided.

* Document distributed at the meeting in English only, comprising draft A and draft B.

7. The CHAIRMAN invited the members of the Committee to proceed with its consideration of the draft concluding observations concerning the fourteenth periodic report of the Russian Federation (CERD/C/Misc.27 (draft A)), draft A being the version based on the Committee's usual practice and incorporating corrections submitted by some members.

Paragraphs 1-14

8. Paragraphs 1-14 were adopted with two minor drafting changes.

Paragraph 15

9. Mr. DIACONU proposed the deletion of the paragraph, since it was not for the Committee to express doubts about the State Party's political will to make funds available for the implementation of its policy.

10. Mr. van BOVEN, supported by Mr. YUTZIS, said he was in favour of retaining the paragraph since the measures needed for implementing the Convention might in some cases require the commitment of substantial resources.

11. The CHAIRMAN said he took it that the majority of members were in favour of deleting the paragraph.

12. Paragraph 15 was deleted.

Paragraph 16

13. Mr. VALENCIA RODRIGUEZ (Country Rapporteur), referring to a suggestion by Mr. Diaconu, proposed that the end of the second sentence should be amended to read: "... in this region and the surrounding areas, where there are still displaced persons and the conditions for a normal life are not ensured."

14. After a brief discussion, the CHAIRMAN said that, since the paragraph specifically concerned Chechnya, the proposed amendment would be placed at a later point in the draft concluding observations.

Paragraph 18

15. Mr. GARVALOV, referring to an earlier suggestion by Mr. Sherifis, proposed that the word "mentioned" should be replaced by "listed".

16. Mr. de GOUTTES said that that change might raise a problem in the French version, but did not object.

17. Paragraph 18, as amended, was adopted.

Paragraph 21

18. Mr. DIACONU proposed the deletion of the phrase "in the budgets of the State and the Republics".

19. Mr. SHAHI proposed the deletion of the whole paragraph.

20. Mr. SHERIFIS proposed that, taking account of the deletion proposed by Mr. Diaconu, the word "Adequate" at the beginning of the paragraph should be replaced by "Increased".

21. Mr. GARVALOV agreed with the amendments proposed by Mr. Diaconu and Mr. Sherifis.

22. The CHAIRMAN said he took it that that was the consensus of the Committee.

Paragraph 21, as amended, was adopted.

Paragraph 24

23. Mr. GARVALOV said that it appeared that for the first time the Committee was recommending ratification of another Convention.

24. The CHAIRMAN pointed out that paragraph 24 recommended that the State party should merely consider ratifying International Labour Organization (ILO) Convention No. 169. Personally, he would have preferred deleting the paragraph. It was not for the Committee to recommend the ratification of conventions adopted by specialized agencies. He saw a risk of opening Pandora's box.

25. Mr. van BOVEN agreed that such a recommendation was not strictly within the Committee's scope. But in the case under consideration, he was in favour of making an exception, because such recommendations had been made in the past, because the Committee had shown a special interest in the rights of indigenous peoples and had adopted General Recommendation XXIII on that subject, and because ILO Convention No. 169 was the only international instrument which addressed the question.

26. Mr. SHERIFIS said that either the paragraph should be elaborated upon to make it clear what ILO Convention No. 169 contained or, even better, it should be deleted.

27. Mr. de GOUTTES said that as there were other equally important instruments which could also be recommended, singling out ILO Convention No. 169 entailed a risk. He agreed that the paragraph should be deleted.

28. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) explained that he had included the reference because Mrs. Sadiq Ali had stressed that the State Party should consider ratifying ILO Convention No. 169, during the Committee's consideration of the periodic report.

29. Mr. NOBEL said that the Committee should avail itself of the opportunity it had in its dialogues with State Parties to recommend those instruments which might play a positive role in the specific situation which it had been discussing. If approached in that way, the danger of opening Pandora's box would be limited.

30. The CHAIRMAN, speaking in his capacity as a member of the Committee, said that in that case, the Committee could just as well ask those countries which had not already done so to consider ratifying the Covenants or their protocols. He noted that other proposals made by the Committee had not been included in the concluding observations. He had reservations on accepting paragraph 24 as it stood.

31. Mr. YUTZIS said that a balance must be struck between formal criteria and certain objectives. He did not see any danger of opening Pandora's box. Since the question of indigenous peoples was an issue which in a sense lay at the heart of the Convention and of the Committee's concerns he saw nothing wrong in referring to another instrument which helped achieve its objectives. The Committee should not place greater emphasis on formal problems than on the benefit which would be derived from such a reference. The point was not to ask a State Party to consider ratifying a whole set of instruments, but only one which the Committee felt was in the best interests of its own Convention.

32. Mr. DIACONU said that there were perhaps a hundred countries in the world with indigenous peoples. He did not recall the Committee having made such a recommendation to other States Parties to the Convention. If it did so now, it would have to make a similar recommendation to all the other countries concerned. In his view, the reference to the indigenous populations in the Russian Federation in paragraph 19 (h) was sufficient.

33. Mr. van BOVEN drew attention to the fact that in paragraph 69 of its report to the General Assembly of 1997 (A/52/18), the Committee had noted that following its recommendation, ILO Convention No. 169 had been ratified by Guatemala in 1996.

34. Mrs. SADIO ALI proposed the following amendment to paragraph 24: "Regarding the indigenous peoples, the Committee recommends that the State Party consider ratifying ILO Convention No. 169".

35. The CHAIRMAN said he took it that the amendment was acceptable.

36. Paragraph 24, as amended, was adopted.

Paragraph 26

37. Mr. DIACONU proposed deleting the reference in paragraph 26 to General Recommendation XXI.

38. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that he supported the proposal by Mr. Diaconu and other members to delete the reference to General Recommendation XXI. The new paragraph, which would begin after the quotation marks and would contain an additional phrase at the end to take account of Mr. Diaconu's proposed amendment to paragraph 16, would then read as follows: "The Committee recommends that the State Party reinforce its measures to protect human rights in Chechnya, Ingushetia and North Ossetia. Measures should be taken in particular to ensure that serious breaches of international humanitarian law do not remain unpunished, that the victims be afforded just and adequate reparation and to ensure normal conditions of life and of return for displaced persons."

39. Mr. SHAAI supported both amendments to paragraph 26. There had been no need to mention General Recommendation XXI because the question of separatism had not arisen.

40. Paragraph 26, as amended, was adopted.

The concluding observations concerning the fourteenth periodic report of the Russian Federation as a whole, as amended, were adopted.

41. Mr. RECHETOV observed that he had refrained from participating in the discussion of the report or of the concluding observations concerning the Russian Federation, although he was convinced that the Committee's decision on impartiality was not a good one and was at variance with the Convention.

42. The CHAIRMAN said that as he understood it, there had been a proposal to amend the rules of procedure in respect of Committee members taking the floor when the reports of their own countries were being discussed, but he was not aware that any decision had been taken on it. He had always been of the opinion that nothing prohibited any member of the Committee from taking the floor on the report on his or her own country. All members of the Committee were presumed to be impartial; the Committee would have benefited from Mr. Rechetov's views on the subject at hand.

43. Mr. RECHETOV said that it had been his impression that there had been such a decision, but he would not pursue the point.

44. He wished merely to stress the importance of paragraph 21, of the concluding observations, because in its original version it had called upon both the federal Government and the republics to commit themselves financially to improving the situation. The fact was that whenever the central Government instructed the governments at Republic level to work to improve relations among ethnic groups, the reply was invariably that they had no funds.

45. Mr. de GOUTTES said that the Committee was in the process of reopening in an indirect fashion an important question which it had already discussed on numerous occasions in the past, namely the attitude of members of the Committee when the report of their country was considered. There was no consensus on that issue in the Committee, and quite a few members were in favour of restraint. He noted that the position of the Human Rights Committee on the question of the independence of members went much further than that of the Committee on the Elimination of Racial Discrimination. Rather than taking up the question hastily, he was in favour of returning to it in greater depth at another time.

46. The CHAIRMAN said that the Committee would not take up that issue unless a fresh amendment to the rules of procedure was submitted. There was currently no rule that prevented a member from making a statement on a report concerning his or her own country and nobody was justified in casting doubt on the Committee's independence. He himself intended to make a statement on the next report of Egypt unless an amendment to the rules of procedure was adopted in the meantime. At the current session, a member had spoken on his own country's report and the Committee had found his contribution useful in drafting its concluding observations.

Paragraph 13

55. The CHAIRMAN suggested that, for ease of reference, the wording of articles of the Convention should be quoted briefly in future because not everyone could immediately associate a particular provision with an article number.

56. It was so agreed.

57. Paragraph 13 was adopted.

Paragraph 14

58. Mr. BANTON proposed that paragraph 14 should be deleted as incompatible with the Committee's mandate.

59. Mr. van BOVEN (Country Rapporteur) agreed that the recommendation concerning funding was somewhat unusual. However, the explicit reference in the report of Switzerland to participation by the Swiss authorities in European campaigns and special events had prompted him to draw attention to the United Nations Voluntary Fund for the Decade to Combat Racism, which was desperately in need of funds.

60. The recommendation in the second sentence was consistent with article 2, paragraph 1 (e). He had been surprised that the Swiss authorities were not more supportive in financial terms of local organizations and institutions dealing with race relations.

61. A vote was taken on paragraph 14.

62. Paragraph 14 was adopted.

63. The draft concluding observations concerning the initial report of Switzerland as a whole, as amended, were adopted.

64. Mr. van BOVEN (Country Rapporteur) said that the Committee had received a letter from the Swiss Government, following the drafting of the concluding observations, in response to Mr. Shahi's question concerning racist propaganda on the Internet. The Committee could include the letter in its report to the General Assembly as a State Party comment in accordance with article 9, paragraph 2 of the Convention, or cover it in a report on the expert seminar on the role of the Internet in the light of the Convention.

65. Mr. BANTON proposed that a summary of the communication should be included in the Committee's report to the General Assembly, perhaps in a new section on general matters under Chapter III which would also cover, for example, the Committee's discussion of the structure of concluding observations.

66. Mr. SHAHI supported Mr. Banton's proposal. The Swiss communication was a very important document in view of the amount of racist propaganda being disseminated with total impunity on the Internet.

67. It was so agreed.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

68. The CHAIRMAN said he wished to draw the Committee's attention to a very important matter. In the past, Committee members had sometimes been subjected to pressure, threats and complaints from States but had always refused to accept them. He recalled General Recommendation IX, which stated, in part, that the Committee, "alarmed by the tendency of the representatives of States, organizations or groups to put pressure upon experts, especially those serving as country rapporteurs, strongly recommends that they respect unreservedly the status of its members as independent experts of acknowledged impartiality serving in their personal capacity". He had previously drawn the Committee's attention to the issue of complaints addressed to certain governments concerning the opinions expressed during the Committee's discussions of State Party reports, and on that occasion as well the Committee had declared the practice unacceptable, asserting that its members were free to express their opinions and views and that no pressure should be exerted on them or threats addressed to them.

69. On the previous day, he had been asked to meet a certain gentleman who had come as a representative of a non-governmental organization (NGO), accompanied by an assistant, to seek information on what he, the Chairman, had said during the Committee's consideration of the report of Switzerland (CERD/C/270/Add.1) with reference to the writer Roger Garaudy. The visitor had accused him of being anti-Semitic, but the Chairman was himself a Semite; he had accused him of denying the Holocaust, which he had never done; and he had threatened him in many ways, which was unacceptable, whether it came from an NGO, a State Party or even his own Government. No one could pressure or threaten him concerning an opinion he had expressed in the Committee.

70. He knew he was not the only one to have been contacted by the gentleman in question; other members of the Committee had also been pressured and threatened. The gentleman had said that he would publish an article attacking the Committee, that he knew everything that went on in the Committee, that he had asked for tape recordings of the meetings and that more than half its members were anti-Semites. At that point the Chairman had ended the conversation and had decided to bring it to the Committee's attention, not for discussion, and not out of fear or as a complaint, but simply to have it placed on record to make it clear that such conduct and threats would not work with the Committee.

71. He invited the Committee to consider further pending issues.

72. Mr. GARVALOV said that he and Mrs. Sadiq Ali had completed the drafting of their part of the joint working paper on article 7 of the Convention being prepared by the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which they hoped would be approved by the Sub-Commission at its August 1998 session. The latest revised version was contained in CERD/C/52/Misc.1/Rev.3.

73. Mr. DIACONU said it was time to deal with the issue of reservations to human rights treaties. In the report of the ninth meeting of persons chairing the human rights treaty bodies (document without a symbol), the chairpersons had asked for letters of support for the approach reflected in General Comment No. 24 of the Human Rights Committee. That issue, which had already been dealt with by the International Law Commission and some other committees, was very important and required discussion by the Committee.

74. Mr. RECHETOV said the Committee should not only support the Human Rights Committee on the matter but should also consolidate its own experience of the previous 20 years. It was a very substantive question and could not be dealt with in a short letter. He proposed that he and Mr. Diaconu could prepare a working paper on reservations, which could be sent to Committee members for discussion a month before the Sub-Commission session.

75. Mr. DIACONU said that he and Mr. Rechetov had different opinions on the issue. He did not agree with General Comment No. 24 of the Human Rights Committee but rather with the preliminary conclusions of the International Law Commission. However, he consented to Mr. Rechetov's proposal.

The meeting rose at 5.30 p.m.



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the Elimination
of all Forms of
Racial Discrimination**

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Fifty-second session

SUMMARY RECORD OF THE 1269th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 18 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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fourteenth periodic reports of Yugoslavia

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The meeting was called to order at 10.15 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance

1. Mr. NOBEL suggested that the Committee should decide before the end of the present session how it intended to contribute to the preparations for the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance which was to be held in 2001. He would like some minutes to be set aside for the Committee to consider the matter so that it could start taking the necessary steps straightaway.
2. Mr. de GOUTTES supported that suggestion. He felt that the Committee was not sufficiently involved in the preparations.
3. The CHAIRMAN said he believed that the subject had already received attention, but he invited the two preceding speakers to consult the Rapporteur of the Committee, Mr. Banton, as to the measures already taken in that regard. He suggested devoting a few minutes to the question at the beginning of the next meeting.
4. It was so decided.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations of the Committee on the thirteenth and fourteenth periodic reports of Ukraine (CERD/C/52/Misc.35, future CERD/C/304/Add.48) (document circulated at the meeting in English only)

5. Mr. van BOVEN (Country Rapporteur) said that, before considering the draft paragraph by paragraph, he would like to make two typographical corrections: a comma should be inserted before the word "notably" in the last line of paragraph 11, and the words "article 7 of" should be inserted before "the Convention" in paragraph 18.
6. Mr. DIACONU pointed out that the word "Tatars" had been written as "Tartars" several times in the text. That mistake should also be corrected.

Paragraphs 1 to 4

7. Paragraphs 1 to 4 were approved.

Paragraph 5

8. Mr. GARVALOV said that he was a keen supporter of the European Framework Convention for the Protection of National Minorities, but he wondered whether the Committee really had grounds to note with satisfaction the State Party's intention to ratify it. Firstly, intending was not the same as doing and secondly, the European Framework Convention was only a regional instrument.

9. The CHAIRMAN, speaking as a member of the Committee, fully supported the remarks made by the preceding speaker. The Committee's satisfaction at the State Party's potential accession to a European convention seemed rather unfair to non-European countries that did not have that opportunity.

10. Consequently, he felt that the wording of the paragraph was ill-conceived. If the other members of the Committee wanted to keep it as it was, he would wish the reservations he had expressed to appear in the summary record.

11. Mr. NOBEL saw no objection to keeping paragraph 5 as it was. There was nothing to prevent the Committee from applauding the fact that such and such a State Party had joined a regional instrument to protect minority rights. It would be no less pleasing if an African country had ratified an Organization of African Unity treaty on the same issue.

12. The CHAIRMAN agreed that the wording should remain as it was provided that his own remarks and those of Mr. Garvalov were reflected in the summary record.

13. It was so decided.

14. Paragraph 5 was approved.

Paragraph 6

15. The CHAIRMAN, again speaking as a member of the Committee, observed that the reference to the creation of the post of Ombudsman was perhaps a little too specific. He was not denying that an ombudsman could help the protection of human rights and the implementation of the Convention, but the office was a typically northern European institution that had come from the Scandinavian countries. In other countries, different systems, either national committees or other bodies, served to protect human rights and combat discrimination. Once more, the reference to a specifically European system bothered him.

16. Mr. RECHETOV saw no reason why the Committee should not welcome the establishment of the post of Ombudsman in Ukraine. However, the Committee should not expect too much with regard to the institution's efficiency; as far as he knew, the post had not been given to someone of high rank with a reputation as an independent expert on human rights.

17. Mr. NOBEL endorsed Mr. Aboul-Nasr's opinion. What was important in the present case was the establishment of an institution responsible for protecting human rights. It did not really matter what the institution, which of course depended on its cultural context, was called; perhaps the beginning of the paragraph could be reworded to make it less specific.

18. Mr. RECHETOV suggested that the word "authorized" should be replaced by "independent".

19. The CHAIRMAN questioned whether an expert appointed by the Supreme Council was really independent.

20. Mr. de GOUTTES said he had no objection to replacing "authorized" by "independent". However, he wanted to keep the wording at the beginning of the paragraph, in which the Committee welcomed the creation of the post of Ombudsman. He drew attention in that connection to General Recommendation XVII on the establishment of national institutions to facilitate the implementation of the Convention (HRI/GEN/1/Rev.3), which the Committee had adopted at its forty-second session.

21. The creation of the post of Ombudsman was fully in accordance with that recommendation.

22. Mr. van BOVEN pointed out that paragraph 17 of the draft stated that the Committee would like additional information on cases of discrimination brought before the Ombudsman. It should therefore be mentioned that the post of Ombudsman had been established. He saw no problem, however, in replacing "authorized representative" by "independent representative".

23. It was so decided.

24. Paragraph 6, as amended, was approved.

Paragraph 7

25. Paragraph 7 was approved.

Paragraph 8

26. The CHAIRMAN questioned whether the statement in the first sentence that the Committee's previous Concluding Observations had not been taken into consideration by Ukraine in preparing its thirteenth report was not going too far. Moreover, he thought that the issue had been raised during the discussion with the delegation.

27. Mr. van BOVEN said that, as far as he remembered, the delegation had not commented on that issue. However, to give the delegation the benefit of the doubt, he suggested inserting the words "many of" in the first line before the words "the Committee's previous Concluding Observations".

28. It was so decided.

29. Paragraph 8, as amended, was approved.

Paragraphs 9 to 14

30. Paragraphs 9 to 14 were approved.

Paragraph 15

31. The CHAIRMAN asked Mr. van Boven to explain the legal arguments the Committee should use to commit Ukraine to ensuring that questions concerning the citizenship of repatriated members of minorities, inter alia the Crimean Tatars, were settled as quickly as possible.

32. Mr. van BOVEN said that adding the words "on the basis of international standards" to the end of the second sentence might make that point clear.

33. Mr. SHERIFIS asked Mr. van Boven to explain whether the phrase "to afford them just and adequate reparation where appropriate" covered the right of the persons involved to recover their property, an important consideration which he felt had been overlooked.

34. Mr. RECHETOV said he had no objection to Mr. van Boven's proposal, but he feared that, if international standards were mentioned, the addressees of the Committee's recommendations might not necessarily interpret them in the same way as the members of the Committee.

35. Mr. van BOVEN, replying to Mr. Sherifis, said that he had in fact spoken of the restitution of the property of repatriated members of minority groups and had tried to cover that point by referring to the Committee's General Recommendation XXII, on restitution, and by using the term "reparation". Furthermore, the draft articles of the International Law Commission (A/51/10) on State responsibility used the term "reparation" in the broad sense, which covered restitution in kind, compensation, satisfaction and non-repetition. He had therefore felt that if restitution were not possible, reparation should at least be made. Furthermore, "reparation" was the term used in the Convention.

36. He added, in reply to Mr. Rechetov, that he had taken account of the fact that Ukraine had amended its citizenship laws in 1997 and that the new legislation should, according to the Conference on Security and Cooperation in Europe, help provide solutions. Nevertheless, if it were felt that the wording "international standards" was too vague, the phrase "in a just manner" might be added after the words "as soon as possible".

37. Mr. RECHETOV agreed to Mr. van Boven's suggestion.

38. Mr. SHERIFIS thanked Mr. van Boven for his explanations. He suggested that the words "where appropriate" should be followed by the words "if the restitution of their property is not any more possible".

39. Mr. van BOVEN said he felt that proposal was not really acceptable, since the notion of reparation covered that of restitution. The word "reparation" would then have to be replaced by "compensation".

40. Mr. SHAHI said he preferred Mr. van Boven's original text. He found Mr. Sherifis' proposed alteration unsatisfactory because the expression "compensation where appropriate" might give the impression that compensation was not granted in every case. In addition, that wording would deprive States Parties of the possibility of exercising their discretion and would have the undesirable effect of curtailing the rights of victims.

41. Mr. RECHETOV considered that it would be preferable to employ the term "reparation" proposed by Mr. van Boven. It should be borne in mind that, frequently, the property in question consisted of rudimentary or dilapidated dwellings. In such cases, demands for restitution would not be realistic and might give rise to further conflicts.

42. The CHAIRMAN said that it would be best to be concise and retain the original wording suggested by Mr. van Boven. Moreover, the Committee might include a footnote in the recommendations, referring the State Party to the Committee's General Recommendation XXII, and ensure that the discussion was duly reflected in the summary record of the meeting.

43. Mr. van BOVEN pointed out that the reference text in question was not the entire General Recommendation XXII, but only its subparagraphs (c) and (d). He emphasized that he had worded the draft concluding observations with considerable care, drawing on his experience in various aspects of the matter of reparation. In the light of the discussions, and upon mature reflection, he considered that the words "adequate reparation where appropriate" provided the best solution in all respects.

44. Mr. SHERIFIS accepted the Chairman's proposal that the concluding observations should contain a footnote drawing the attention of the State Party to paragraph 2, subparagraphs (c) and (d), of General Recommendation XXII, on the understanding that the concerns expressed by the members of the Committee would be duly reflected in the summary record of the meeting.

45. Mr. RECHETOV, while not opposing the Chairman's proposal, feared that it might create a precedent. He reiterated his concern about the manner in which General Recommendation XXII might be interpreted.

46. The CHAIRMAN said that, if he had understood correctly, the Committee agreed that the words "as soon as possible" would be followed by the words "in a just manner" and that a footnote would be included in the text of the Committee's concluding observations on Ukraine.

47. It was so decided.

48. Paragraph 15, as amended, was approved.

Paragraph 17

49. Mr. RECHETOV said that in 1994, in regard to the declaration provided for in article 14 of the Convention, he had personally ensured that the commitment was made. The declaration had been made on behalf of the Soviet Union as a whole but Ukraine, when it ratified the Convention, had assumed the obligations formerly contracted by the Soviet Union under article 14.

50. After an exchange of views between Mrs. SADIO ALI, Mr. van BOVEN and Mr. BANTON, paragraph 17 was approved.

Paragraph 18

51. The CHAIRMAN said that the paragraph should begin with the words "in the light of article 7 of the Convention".

52. Mr. DIACONU drew the Committee's attention to the fact that article 7 did not commit States Parties to organizing teaching in the mother tongue of ethnic minorities, but simply to providing teaching on human rights with a view to combating prejudices that led to racial discrimination. Moreover, it would be totally excessive and unrealistic to expect any State to offer teaching in all its minority languages. The Committee might, however, require the State Party to provide education and teaching in the mother tongue of minorities, wherever possible.

53. Mr. van BOVEN, referring to Mr. Diaconu's comments, suggested that the words "in the light of article 7 of the Convention" at the beginning of the paragraph should be deleted, and that the words "in the mother tongue of all minorities" at the end of the paragraph should be replaced by the words "in the mother tongue of minorities, wherever possible".

54. Paragraph 18, as amended, was approved.

55. Paragraph 19 was approved.

56. The draft concluding observations concerning the thirteenth and fourteenth periodic reports of Ukraine as a whole, as amended orally, were adopted.

Draft concluding observations of the Committee on the eleventh to fourteenth periodic reports of Yugoslavia (CERD/C/52/Misc.39, future CERD/C/304/Add.50) (document circulated at the meeting in English only)

57. Mr. RECHETOV (Country Rapporteur) emphasized that it would be no easy task to adopt the text of the draft concluding observations under consideration. In his capacity as Rapporteur, he had introduced a number of minor changes to the draft prepared by the Secretariat. However, he had received some 50 proposed amendments, some of which contradicted each other. He had done his best to take them into account, but it was for the Committee to take the final decision.

Paragraphs 1 and 2

58. Paragraphs 1 and 2 were approved.

Paragraph 3

59. Mr. RECHETOV pointed to an error in the second sentence of the paragraph, in which "1995" should read "1993".

60. Paragraph 3, as amended, was approved.

Paragraphs 4, 5 and 6

61. Paragraphs 4, 5 and 6 were approved.

Paragraph 7

62. Mr. SHAHI asked what information justified the statement that "significant" progress had been made towards the normalization of the health-care system.

63. Mr. RECHETOV replied that all the information he had received, including information from Albanians and Serbs of Kosovo and Metohija, concurred on that point; no one had questioned paragraph 7 when the periodic report of Yugoslavia was being considered.

64. The CHAIRMAN believed nevertheless that the word "significant" was somewhat too strong, and suggested that it should be replaced by "some".

65. Mr. de GOUTTES pointed out that the good-offices mission itself had spoken only of "some" progress.

66. Paragraph 7, as amended, was approved.

Paragraph 8

67. Mr. SHAHI said he felt that it would be appropriate to speak of the protection of human rights as well as of the protection of the rights of national minorities, and to amend the text accordingly. The draft expressed the hope that Kosovo and Metohija would come to enjoy a greater autonomy, but he failed to understand how a non-existent autonomy could grow larger; he therefore suggested that the words "a greater" preceding the word "autonomy" should be deleted.

68. Mr. GARVALOV said that he had no comment to make regarding the first sentence of paragraph 8 if it had in fact been taken from a statement made by the Republic of Serbia; what was at issue there was the protection of collective rights. In the second sentence, however, the concept of a greater autonomy should be replaced by that of the re-establishment of autonomy.

69. The CHAIRMAN observed that, in its existing wording, the second sentence of the paragraph would be more appropriately situated in the part of the concluding observations devoted to suggestions and recommendations.

70. Mr. DIACONU asked the Secretariat to verify that the reference to the protection of human rights, and not just of the rights of minorities, did in fact appear in the statement made by the Republic of Serbia before incorporating it in the text. Autonomy, meanwhile, could become greater if it was accepted that in 1989 Serbia had offered the province an autonomy of sorts, of a more limited nature than before. Since the right to autonomy did not in fact exist, it would be best to allow those concerned to negotiate as they saw fit.

71. The CHAIRMAN said that he took a different view. The Serbian Government had not in fact "offered" but rather "imposed" a new structure. Moreover, in the past the Committee had frequently appealed for the restoration of the rights of given populations, such as the Palestinians or the Cypriots, and it should not ignore the catastrophic situation at present prevailing in Kosovo.

72. Mr. YUTZIS said that it should be indicated that a particular situation, which constituted a right, should be restored and that the person responsible for denying that right, the Serbian Government, should be identified. That statement should appear in part C and part E.

73. Mr. SHAHI considered that not only should the words "a greater" be deleted from the second sentence, but also the whole of the end, which read "as a means of better enjoyment of human rights by everyone". Obviously, the Committee supported autonomy, and not the separatist claims which were being voiced in Kosovo. If the Committee failed to express its opinion on that point clearly, it would give the impression that it remained aloof from a situation that was a cause of concern to international opinion everywhere.

74. Mr. BANTON suggested that the text to be approved by the Committee for paragraph 8 should be confined to the first sentence of the paragraph.

75. Mr. RECHETOV said that all the views just expressed were defensible. He was surprised, however, by the notion that the protection of minority rights was less important than the protection of human rights. It was true that those who had drafted the International Covenant on Civil and Political Rights had considered that there were two kinds of countries, those which recognized collective rights and those which recognized the rights of members of national minorities as individuals. In his view, the protection of the rights of national minorities should encompass consideration of the full range of human rights, both collective and individual.

76. Mr. DIACONU agreed that it was essential to restore every human right that had been denied but, he repeated, autonomy was not a human right and no instrument existed which guaranteed such a right; it was simply one means of organizing a State. The countries of Eastern Europe in particular, for their part, had agreed that ethnic groups did not have a right to autonomy. It would not be appropriate to impose institutions on Eastern Europe that it did not itself intend to establish.

77. The CHAIRMAN observed that, with independence granted to the Croatsians, Eastern Europe had far surpassed autonomy.

78. Mr. YUTSIS said that, in speaking earlier about the paragraph under discussion, he had not intended to suggest that autonomy was a human right, but that the level of protection accorded to a population's human rights might derive from the level of autonomy it enjoyed. The Committee could look to the example of Serbia which, by limiting autonomy, had also limited the enjoyment of human rights.

79. Mr. de GOUTTES commended Mr. Rechetov for reminding the Committee that there had traditionally been two groups of States in the United Nations, those which recognized collective rights and those which recognized the individual rights of persons belonging to minorities - which could, moreover, exercise their rights collectively; there was no need, however, for the Committee to take a position on the relative value of each of those two systems, and the second sentence of paragraph 8 did not necessarily imply the existence of collective rights.

80. The CHAIRMAN suggested that the Committee should approve only the first sentence of the paragraph under discussion as paragraph 8, to the exclusion of any reference to human rights, since no mention of them was made in the statement of the Government of the Republic of Serbia.

81. It was so decided.

82. Paragraph 8, as amended, was approved.

Paragraph 9

83. Paragraph 9 was approved.

Paragraph 10

84. Mr. SHAHI said that the expression "not fully guaranteed" was not the most apt, because although it could be applied to certain minorities, it was not sufficiently applicable to access to education by the Albanian minority. A formulation should be found which better reflected reality.

85. The CHAIRMAN observed that the mention of allegations in the first sentence of the paragraph greatly weakened the text.

86. Mr. RECHETOV said first that Mr. Shahi's concern was justified if Kosovo alone was taken into consideration, but the paragraph dealt with all minorities; in Kosovo, the situation was much more complex.

87. He proposed that the word "allegations" should be replaced by the word "indications", or by some other word which carried that meaning in English, and that the paragraph should be approved on the understanding that it did not refer to Kosovo.

88. Mr. GARVALOV confirmed that paragraph 10 concerned all the minorities mentioned in the report of the State Party except for the Albanians of Kosovo. Furthermore, since the information it contained consisted of well-known facts, it would be preferable to use the word "reports" rather than the word "allegations".

89. As worded, the paragraph grouped all minorities together, whereas some, for example the Hungarian minority, had full access to education, information and cultural activities in their own languages. The phrase "access of minorities" should therefore be replaced by "access of certain minorities".

90. Mr. SHAHI stressed that it should be clearly understood that the paragraph did not refer to the Albanian population.

91. The CHAIRMAN invited the members of the Committee to approve paragraph 10, as amended, with the exception of the final three words ("not fully guaranteed"), which should remain unchanged.

92. Paragraph 10, as amended, was approved.

Paragraph 11

93. Paragraph 11 was approved.

Paragraph 12

94. Mr. SHAHI requested further information concerning the goodwill mission mentioned in the paragraph.

95. Mr. RECHETOV said that the mission had been instructed to study a number of questions, particularly in the areas of education and health care, and to promote dialogue between the authorities and the Albanian community of Kosovo and Metohija, with a view to enhancing the implementation of the Convention.

96. Mr. GARVALOV stressed that the mission had visited the State Party to promote dialogue and that it had emphasized two areas, education and health care. Paragraph 12, as worded, reflected precisely what the mission had accomplished. In that connection, the State Party had emphasized that the goodwill mission had played a useful role.

97. The CHAIRMAN suggested that paragraph 12 should be approved as it stood.

98. It was so decided.

99. Paragraph 12 was approved.

Paragraph 13

100. Paragraph 13 was approved.

101. Mr. YUTSIS suggested that the paragraph should indicate that the army as well had made disproportionate use of force.

102. The CHAIRMAN therefore proposed that the words "and the military" should be inserted after the words "law enforcement agencies".

103. Mr. van BOVEN said that the word "although" at the start of the paragraph presented a problem, because it could be seen as justifying, to a certain extent, that which was denounced thereafter. He therefore proposed that the clause "although the situation in the province of Kosovo and Metohija has been seriously aggravated in recent weeks" should be deleted; that the paragraph should begin, "the Committee notes ..."; and that the phrase "in the province of Kosovo and Metohija" should be inserted after "the Albanian population".

104. Mr. GARVALOV proposed that the word "notes" should be replaced by "is concerned".

105. Following an exchange of views between Mr. RECHETOV and Mrs. ZOU, the CHAIRMAN read out the paragraph as amended: "The Committee is concerned that disproportionate use of force by law enforcement agencies and the

military against the Albanian population in the province of Kosovo and Metohija has resulted in numerous violations of the right to life, destruction of property and displacement".

106. Paragraph 14. as amended. was approved.

Paragraph 15

107. Mr. YUTSIS said that, in his view, the first sentence as worded implied that the Committee assumed that terrorist actions did in fact exist; he therefore proposed its deletion. In addition, the final sentence did not seem to follow the logic of the paragraph.

108. Mr. van BOVEN said that, in a sense, the Committee was lending credence to Government terminology by calling the Albanian dissidents terrorists. It should be remembered that Governments often vilified their opponents by calling them terrorists. President Mandela, who was today a hero, had in his day been denounced as a terrorist. He therefore supported the proposed deletion of the first sentence, and suggested that the word "terrorist" should be put in inverted commas each time it appeared in the text, and that the words "by any means" should replace the words "by the fight against terrorism".

109. The CHAIRMAN, speaking as a member of the Committee, said that the Committee, in submitting its report to the General Assembly, should set out the position of the State Party, since it should be made clear that the State Party did not necessarily endorse the report.

110. Mr. DIACONU said he was not opposed to deleting the first sentence and to putting the word "terrorist" in inverted commas each time it appeared. In his view, moreover, the content of the last sentence was not a matter for the Committee but for the United Nations Security Council.

111. The CHAIRMAN suggested that the Committee should continue its examination of paragraph 15 and the subsequent paragraphs of its concluding observations on the fourteenth periodic report of Yugoslavia at the next meeting.

112. It was so decided.

The meeting rose at 1 p.m.



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1270th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 18 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

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Draft concluding observations concerning the initial and second periodic
reports of the Czech Republic

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations concerning the eleventh to fourteenth periodic
reports of Yugoslavia (CERD/C/52/Misc.39*; future CERD/C/304/Add.50)
(continued)

Paragraph 15 (continued)

1. The CHAIRMAN said that a new version of the second and third sentences of paragraph 15 had been agreed upon, which he asked Mr. Rechetov to read out.
2. Mr. RECHETOV (Country Rapporteur) said that the new version of the second and third sentences read as follows: "Although the State Party has argued that its recent actions in Kosovo and Metohija were carried out exclusively with a view to combating terrorism, the Committee notes with serious concern that a great number of victims of the recent events are civilians, including women and children, whose deaths cannot be justified by any means. It states that any attempt to push for a military solution of the long-standing crisis in Kosovo could have disastrous consequences".
3. If the new version of paragraph 15 met with the Committee's approval, it would then be possible to delete the last sentence in paragraph 21, which read: "It considers that any action against terrorist groups should be proportionate to the aim sought and not represent a risk for those not directly involved in terrorist acts".
4. The CHAIRMAN said that the Committee could deal with Mr. Rechetov's last suggestion when it took up paragraph 21.
5. Paragraph 15, as amended, was adopted.

Paragraph 16

6. Mr. van BOVEN proposed that the last phrase of paragraph 16 ("nor tried before Yugoslav domestic courts") should be deleted. The paragraph would then read: "It is regretted that the cooperation of the State Party with the International Criminal Tribunal for the former Yugoslavia remains insufficient and that individuals indicted for war crimes and crimes against humanity are not put at the disposal of the Tribunal." As it stood, the text gave the impression that once an indictment was made and an arrest warrant issued, the Government of Yugoslavia would still have the option either to transfer the indicted person to the Tribunal or to try the person itself before its domestic courts. The statute of the Tribunal provided for no such choice: when the Tribunal issued an indictment, the authorities concerned were under

* Document distributed at the meeting in English only.

an obligation to hand over the indicted person and could not - and that was the position of the United Nations and the Secretary-General - invoke domestic constitutional reasons for refusing to do so.

7. A separate sentence on the trial of persons before domestic courts could then be inserted elsewhere.

8. Mr. de GOUTTES endorsed Mr. van Boven's proposal since the object of the paragraph was cooperation with the International Criminal Tribunal. In accordance with the Committee's usual practice, a request could be inserted in another paragraph asking the State Party to provide the Committee with information on prosecution before its domestic courts of offences relating to the implementation of the Convention.

9. Mr. RECHETOV (Country Rapporteur) referred Mr. de Gouttes to paragraph 22, which also concerned cooperation with the tribunal. It might be preferable to avoid the repetition.

10. On the point raised by Mr. van Boven, he said that in his opinion, the Security Council resolution establishing the International Criminal Tribunal for the former Yugoslavia did not prevent domestic courts from prosecuting persons for war crimes and crimes against humanity.

11. Mr. van BOVEN said that of course it was also assumed that national authorities would prosecute and try such persons. The International Criminal Tribunal could only try a limited number of cases. It did not necessarily replace domestic courts. But once the Tribunal had conducted an investigation, indicted someone and claimed jurisdiction - and, as he interpreted it, the phrase "individuals indicted for war crimes and crimes against humanity" meant that such indictments had been issued by the Tribunal - the State Party could not refuse to recognize the Tribunal's arrest warrant or to hand over the individual on the grounds that it was conducting the prosecution itself. In such instances, the Tribunal had primary jurisdiction, as the Secretary-General had stressed in his long-standing exchange of letters with the Government of Yugoslavia. The Committee should not take a different line.

12. Paragraph 22 was satisfactory as it stood. In its discussions, the Committee had moreover regretted that there had been hardly any cases, perhaps only one, tried by the domestic courts.

13. Mr. YUTZIS said that he supported Mr. van Boven's proposal, which was a faithful reflection of the discussion in the Committee.

14. Mr. RECHETOV (Country Rapporteur) said that he had no objection to the deletion proposed, but for clarity's sake, the words "by this Tribunal" should then be inserted between "indicted" and "for war crimes".

15. Paragraph 16, as amended, was adopted.

Paragraph 18

16. Mr. SHERIFIS said that the same wording should be used as had been agreed on that morning in the concluding observations on Ukraine, namely: "The Committee recommends that the State Party take all appropriate measures to ensure education and teaching in the mother tongue of minorities wherever possible".

17. The CHAIRMAN noted that that proposal weakened the text.

18. Mr. GARVALOV proposed that the word "all" should be inserted in the first line between "full enjoyment by members of" and "minorities". That would make it more consistent with the text of paragraph 10 ("Concern is expressed about continuous reports indicating that, despite constitutional and legal safeguards, access of certain minorities to education, public information and cultural activities in their own language is not fully guaranteed").

19. Mr. DIACONU said that paragraph 10 spoke of "access to education" in the mother tongue, whereas paragraph 18 referred to "full enjoyment" of the right to education in the minorities' own language. "Enjoyment" meant that the State was under an obligation to create schools for everyone, whereas "access to" suggested that the schools were open to those who wished to attend them. He proposed the following text: "Efforts should be pursued in order to guarantee full enjoyment by members of all minorities of their rights to public information and cultural activities, as well as to education, wherever possible, in their own language". That would introduce a more flexible formulation for the idea of education in the mother tongue - which could not realistically be guaranteed for everyone - while allowing for the right to full enjoyment of public information and cultural activities. He did not have in mind the Albanians in Kosovo alone: there were Albanians in other areas, and there were other minorities as well.

20. Mr. BANTON supported Mr. Diaconu's proposal.

21. Mr. GARVALOV pointed out that Yugoslavia was a special case. The Committee could not use the same language as for Ukraine, because that was a different case. He did not want one particular minority in Yugoslavia being denied the use of its language in schools while other minorities enjoyed that right. Thus, the proposed phrase "wherever possible" was unacceptable to him, because it seriously weakened the text.

22. The CHAIRMAN, speaking in his capacity as a member of the Committee, said that he was inclined to agree with Mr. Garvalov.

23. Mr. BANTON noted that that was an issue in his own country as well. How many Welsh speakers did there have to be in a community before the educational authorities were required to provide Welsh medium schooling? It was a practical problem, involving the use of limited funds in the education budget. He did not think that the Committee could say that a State must provide education in the mother tongue when there was only a very small number of children whose parents wished them to benefit from it. Some clause such as "wherever possible" or "wherever practical" was inevitable.

24. Mr. GARVALOV said that he was willing to go along with Mr. Diaconu's proposal, but wished to have it placed on record that he was referring to one particular minority in Yugoslavia, the Bulgarian, and that he had made it clear to the delegation of the State Party that that minority was not given the same treatment in respect of education in the mother tongue as the other minorities in that country.

25. Paragraph 18. as amended. was adopted.

Paragraph 21

26. The CHAIRMAN recalled that during the discussion of paragraph 15, there had been a proposal by Mr. Rechetov to delete the second sentence.

27. Paragraph 21. as amended. was adopted.

Paragraph 22

28. Mr. RECHETOV (Country Rapporteur) suggested inserting the phrase "by the Tribunal" between "handing over those indicted" and "for war crimes and crimes against humanity", much in the same way as had been done in paragraph 16.

29. Paragraph 22. as amended. was adopted.

30. The CHAIRMAN invited the Committee to resume its consideration of paragraph 8, no decision having been taken on whether to delete the second sentence.

Paragraph 8

31. Mr. RECHETOV (Country Rapporteur) said he viewed it as an important sentence and suggested that it should be moved to section E (Suggestions and recommendations) and reworded in such a way as to advocate a change in the status of Kosovo that would improve the existing circumstances of the population. Whether to call for greater autonomy was a moot point but the idea of creating a framework for greater enjoyment of human rights should be maintained.

32. Mr. DIACONU pointed out that autonomy was merely a tool for the achievement of human rights. He proposed the deletion of paragraph 8 and the insertion of the following paragraph in section E after paragraph 19: "The Committee expresses the hope that a solution for Kosovo and Metohija could include a status of autonomy for this part of the State Party as a means of better enjoyment of human rights by everyone."

33. Mr. RECHETOV (Country Rapporteur) said he could go along with Mr. Diaconu's proposal if "expresses the hope" was amended to read "expresses the opinion".

34. Mr. SHERIFIS suggested that a working group should be established to draft an acceptable formula. He was in favour of including a reference to General Recommendation XXI.

35. Mr. GARVALOV said that the generally held view among Kosovo Albanians was that they had been robbed of their autonomy and could therefore settle for nothing short of independence. The Committee must face up to that fact. The least it could do was to encourage the State Party to use all available means, including autonomy, to resolve the situation in Kosovo and Metohija in such a way as to ensure better enjoyment of human rights by everyone. Even wording along those lines would fail to do justice to the legitimate demands of the Kosovo Albanians.

36. Mr. BANTON agreed with the suggestion to insert a new paragraph after paragraph 19. He proposed the following wording which referred to existing attempts by such bodies as the Organization for Security and Cooperation in Europe (OSCE) and the European Union to assist in negotiating a solution: "The Committee recommends that the State Party, in consultation with others, seek a solution for Kosovo and Metohija which includes a status of autonomy for this part of the State Party as a means of better enjoyment of human rights by everyone."

37. The CHAIRMAN, speaking in his personal capacity, said he was reluctant to advise any State Party to involve other bodies in seeking a solution to its difficulties. He was, however, willing to advocate autonomy in the strongest terms.

38. Mr. de GOUTTES said that, in their dialogue with the State Party, the six countries of the Contact Group had repeatedly ruled out both independence and maintenance of the status quo and had advocated instead "a higher degree of autonomy". He could support Mr. Diaconu's proposal if the words "a status of autonomy" were replaced by "a higher degree of autonomy".

39. The CHAIRMAN, speaking in his personal capacity, said he would prefer "a high degree of autonomy".

40. Mr. YUTZIS said he was unable to accept any wording that was inconsistent with General Recommendation XXI or that undermined the case for recovery of lost autonomy. He was inclined to opt for the wording "a higher degree of autonomy" proposed by Mr. de Gouttes.

41. Mr. SHAHI said it did not make sense to advocate a "higher degree" of autonomy if the ethnic Albanians had been deprived of their autonomy. He suggested a reference to "recovery of a status of autonomy". He also proposed that the word "better" before "enjoyment of human rights" should be deleted.

42. Mr. DIACONU said that the Committee could not advocate the restoration of the status of autonomy that had existed in the former Yugoslavia. States Parties were under no obligation to grant autonomy: they could only be encouraged to use it as a means of guaranteeing enjoyment of human rights. What he meant by a "status of autonomy" was a document concluded with the minority concerned and having formal international status.

43. The CHAIRMAN asked whether the Committee wished to act on Mr. Sherifis' proposal to establish a working group to draft a compromise text.

44. It was so agreed.

Draft concluding observations concerning the initial and second periodic reports of the Czech Republic (CERD/C/52/Misc.31*. Future/CERD/C/304/Add.47)

Paragraph 11

45. Mr. DIACONU (Country Rapporteur), replying to a question by the CHAIRMAN, said that the political party mentioned in paragraph 11 indeed existed and that no action was taken against it for political reasons. The State Party had not denied its existence.

46. Mr. GARVALOV said that the existence of such a party was a violation of article 4, a point he had made during the discussion of the State Party's report.

47. Paragraph 11 was adopted.

Paragraph 13

48. Mr. DIACONU (Country Rapporteur) said that "article 7" in the fourth line should read "article 5".

49. Paragraph 13, as amended, was adopted.

Paragraph 16

50. Mr. DIACONU (Country Rapporteur) said that paragraph 16 was the result of an error and should be deleted.

51. Paragraph 16 was deleted.

Paragraph 17

52. Mr. GARVALOV proposed replacing the word "individuals" in the third line by "persons".

53. Paragraph 17, as amended, was adopted.

Paragraph 19

54. Mr. DIACONU (Country Rapporteur) said that the word "among" in the last sentence should be replaced by "and".

55. Paragraph 19, as amended, was adopted.

Paragraph 24

56. Mr. DIACONU (Country Rapporteur) taking up a suggestion by Mr. van BOVEN, proposed that the end of the paragraph should be expanded to read "... adolescents in institutions, in particular members of the Roma community."

57. Paragraph 24, as amended, was adopted.

58. The draft concluding observations concerning the initial and second periodic reports of the Czech Republic as a whole, as amended, were adopted.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 12)
(A/52/18; A/52/471; A/52/528; General Assembly resolutions 52/111 and 52/109; E/1997/87; E/CN.4/1997/68/Add.1; E/CN.4/1998/77/Add.1 and Add.2)

59. Mr. BANTON, referring to paragraph 667 of the Committee's report to the fifty-second session of the General Assembly (A/52/18) and Commission on Human Rights resolution 1997/74, said that, on the Committee's instructions, he had sent a letter to the United Nations Secretary-General and the Chairman of the Commission on Human Rights containing a list of subjects on which specialist reviews might be prepared by the Committee as a basis for the work of the proposed world conference on racism and racial discrimination, xenophobia and related intolerance. He had received a fax from the Executive Office of the Secretary-General dated 16 October 1997 referring to arrangements for the appointment of a preparatory committee for the conference. It was anticipated that the chairman of the preparatory committee would collaborate with the Chairman of the Committee on the preparation of the world conference. The communication closed with an assurance that the conference would take full account of the information accumulated by the Committee. He trusted that the Committee would invite the Chairman to seek further information on developments with respect to the preparatory committee and the Committee's role in that context.

60. Also under the heading of the Third Decade to Combat Racism and Racial Discrimination, he drew attention to a report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/52/471). Paragraph 42 was of special interest to the Committee in connection with its consideration of the next periodic report of Brazil. He also drew attention to General Assembly resolution 52/111, in particular paragraph 30 concerning the Committee's role in assisting the preparatory committee for the world conference, and General Assembly resolution 52/109 on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

61. Mr. NOBEL urged the Committee to initiate formal or informal discussions as soon as possible on active involvement in the preparations for the world conference on racism and racial discrimination, xenophobia and related intolerance. If it waited until the whole process had been set in motion, it ran the risk of being marginalized. Furthermore, it would be a shame to deprive the world conference of the Committee's unique experience and expertise. He suggested that the Committee should organize a half-day seminar for representatives of permanent missions to draw attention to its achievements and potential in the fight against racial discrimination.

62. The CHAIRMAN said that General Assembly resolution 52/111 was quite clear: the General Assembly established the Commission on Human Rights as the preparatory committee for the world conference, and also requested Governments, the Committee and other human rights mechanisms "to assist the preparatory committee, to undertake reviews and submit recommendations concerning the conference and the preparations therefor to the preparatory committee through the Secretary-General". The Committee could not go further than the tasks assigned to it in the resolution.

63. Ms. McDOUGALL said she had met representatives of all the bodies participating in preparations for the conference and had concluded that any group that decided to marshal its energy to participate in a proactive way and create the necessary momentum could play a role not just of assistance but of leadership, which would be welcomed both by the Secretariat and by the Commission, since no major moves had as yet been made. She agreed with Mr. Nobel that the conference would be a centrepiece of United Nations action in the Third Decade, and the Committee must play a central role and begin to fashion that role immediately. It should consider setting up a working group without delay to initiate liaison with the preparatory committee, before the end of the current session.

64. The CHAIRMAN said that the Committee was still completely in the dark about developments in the preparatory process. In order to be of assistance and consider follow-up action, it must take part in the work of the preparatory committee. He foresaw difficulties in obtaining the necessary information in the time available.

65. Ms. McDOUGALL said that the working group she was proposing would represent a first step in that direction.

66. Mr. van BOVEN said that, as the work of the Committee was not at all known and its position within the United Nations was marginal, the world conference would offer a good opportunity to put the Committee on the map. The Committee should be more aggressive and should not simply wait to be invited; it should make its availability known. He agreed with Mr. Nobel and Ms. McDougall.

67. Mr. SHAHI said that despite the fact that the Committee was the key body concerned with the elimination of racial discrimination, it was simply being asked to assist other bodies and was allowing itself to be reduced to a marginal role on questions concerning racism. The Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance was taking the lead and, although his work was valuable, he did not have the experience of evaluating State Party compliance with the Convention. In the time remaining at the session, the Committee should concentrate on the conference, subject of course to the conclusion of its consideration of urgent situations such as Yugoslavia and Rwanda.

68. At its fifty-first session the Committee had already drawn attention to the two seminars organized as part of the preparatory process, one on immigration and the other on the role of the Internet in the dissemination of racist ideas. A joint working paper on article 7 of the Convention was being

prepared by Mr. Garvalov and Mrs. Sadiq Ali in conjunction with the Sub-Commission on Prevention of Discrimination and Protection of Minorities, but that would not represent sufficient input from the Committee. The Internet was bound to play a leading role in disseminating racist propaganda, as it was cheap and widely accessible; the Committee should take further action on that subject. As Mr. Diaconu had said at the previous session, "the proposed world conference would provide an opportunity for the Committee to emerge from the shadows. To do so, it would certainly have to participate in the work of the preparatory committee, but should above all submit a comprehensive report on minorities, immigrants, foreigners and indigenous peoples (...) from the standpoint of the International Convention on the Elimination of All Forms of Racial Discrimination, and especially on the basis of the reports submitted by Governments. In view of the number of reports submitted, that would be an enormous task, for which the Committee could request support from the Secretariat" (CERD/C/SR.1244, para. 37).

69. He had been designated by the Committee as its representative on the preparatory committee for the World Conference on Human Rights, when the Committee had played a role in persuading the other human rights treaty bodies to develop early warning measures and urgent action procedures.

70. Mr. de GOUTTES said he supported Ms. McDougall's proposal for creating a working group that could make contacts before the end of the current session and define the Committee's specific role in preparing for the world conference. It would also have the advantage of affirming the Committee's presence in a field in which it had not been given the prominence it deserved. In addition to the ideas proposed on discrimination and the Internet and the study on article 7, there was also the important topic of racial or ethnic discrimination in the private sector, in such fields as housing, employment and trade.

71. The CHAIRMAN said that members of the Committee had produced a large number of studies over the years which could contribute to the conference. In the meantime, however, the Committee needed to be informed of the stage reached in the preparatory process. In addition to the proposed working group, perhaps a member of the Committee could attend the meetings of the preparatory committee, to secure such information, notably with regard to the financial aspects of the conference.

72. Mr. SHERIFIS asked whether the date and venue of the conference had been established. The General Assembly had in fact acknowledged a role for the Committee, in undertaking reviews and submitting recommendations and also in participating actively in the conference; the Committee should play not just an active but a protagonistic role, which was its rightful role, and it should participate in the work of the preparatory committee. The conference should be a priority item on the agenda of the Committee's August 1998 session.

73. Ms. McDUGALL said that one of the tasks of the proposed working group would be to secure answers to the Committee's various questions and report back to the Committee, by the last day of the session at the latest.

74. Mr. YUTZIS said there seemed to be a consensus on the proactive role the Committee should play in preparing for the conference, although its specific

contribution to the conference itself remained to be determined. Little had been done so far and, as Ms. McDougall had said, all initiatives would certainly be welcome.

75. Mr. BANTON recalled that the conference was being held as part of the Third Decade, and that the opening statement in the Programme of Action for the Decade had originated with the Committee. That statement, which was of considerable importance, indicated that the most important steps towards the fulfilment of the Decade's objectives would be those taken by States Parties within their own jurisdictions. A number of people and bodies wanted to see the conference agenda as a matter for States' foreign policy, but that statement prioritized States' domestic policies. Who was better placed than the Committee to comment on those domestic policies? That should be the basis of the Committee's claim for a prominent role in the preparation of the conference.

76. The Committee should have an open-ended working group, which would have to work by correspondence after the close of the current session. Its members would need to look closely at the Commission on Human Rights resolution containing the proposed conference objectives, which were more focused than those of either of the two previous world conferences on the subject. Participants in the working group might benefit from a Secretariat document setting out the key decisions already taken in respect of preparations for the conference.

77. The CHAIRMAN said the preparatory committee would be drafting a document for presentation at the conference, where it would be discussed and possibly amended. The Committee should ascertain where it could make an effective contribution within that machinery.

78. Mr. GARVALOV suggested that the Chairman should send a letter to the High Commissioner for Human Rights and the Chairman of the Commission advising them that the Committee had debated the issue and requesting them to associate the Committee as closely as possible, through one of its representatives, with the sessions of the preparatory committee. As to the conference agenda, it was high time the Committee went on record as making it clear to States Parties that one of the biggest problems the Committee and the international community faced in combating racial discrimination was that of compliance with their obligations under the Convention.

79. Mr. SHAHI agreed that the composition of the working group should be open-ended. He supported Mr. Garvalov's suggestion that a letter should be sent to the High Commissioner for Human Rights and the Chairman of the Commission on Human Rights at its fifty-fourth session indicating the Committee's interest in participating, through one of its representatives, in the preparatory work for the world conference. Such a letter might say that, as the primary role in implementing the International Convention on the ~~Elimination of All Forms of Racial Discrimination~~ was played by States, the experience gained by the Committee in considering reports by States Parties, and preparing General Recommendations enabled it to make a distinctive contribution to achieving the ends of the world conference.

80. Mr. RECHETOV said that in preparing for the world conference, the Committee should not lose sight of its main task. It must make the most of the time that remained at its session and not leave any draft concluding observations pending, which would set a bad precedent.

81. The CHAIRMAN said that Mr. Rechetov had made an important point. If the Committee were to concentrate on the world conference and neglect its own work it would be accomplishing nothing. As what was most needed at the current stage was information, he suggested that a contact group of three members should be established to collect information on the preparations for the world conference and report to the Committee, with suggestions on the Committee's contribution, at its 1273rd meeting. An open-ended working group would then be established. He suggested that the contact group should comprise Mr. Garvalov, Ms. McDougall and Mr. Yutzis and be chaired by Mr. Garvalov. If he heard no objection, he would take it that the Committee agreed.

82. It was so decided

83. The CHAIRMAN said he would ask the secretariat, in coordination with Mr. Banton, to prepare two letters based on Mr. Garvalov's proposal, to be signed and dispatched before the end of the current session. The letters would be brief and simply express the Committee's willingness to participate in the preparations for the world conference. He would also raise the question with the High Commissioner for Human Rights, whom he was due to meet the following day.

84. Mr. BANTON drew attention to three remaining documents in connection with the Third Decade: E/1997/87, in particular paragraph 41, E/CN.4/1997/68/Add.1 and E/CN.4/1998/77/Add.1, in particular paragraphs 35 and 39.

85. The CHAIRMAN said that, save for its discussions of the reports of the seminar on immigration, racism and racial discrimination (E/CN.4/1998/77/Add.1) and the seminar on the role of Internet with regard to the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (E/CN.4/1998/77/Add.2), to which it would return if time permitted, the Committee had concluded its consideration of agenda item 12.

The meeting rose at 6 p.m.



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of all Forms of
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SUMMARY RECORD OF THE 1271st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 19 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

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The meeting was called to order at 10.10 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT ACTION PROCEDURES (agenda item 6) (continued)

Draft decision of the Committee on the Democratic Republic of the Congo
(CERD/C/52/Misc.32) (document circulated at the meeting in English only)

1. The CHAIRMAN suggested that the Committee should adopt the draft decision on the Democratic Republic of the Congo as it stood subject to a minor spelling correction.
2. The draft decision on the Democratic Republic of the Congo, as orally amended, was adopted.

Draft decision of the Committee on Bosnia and Herzegovina
(CERD/C/52/Misc.33/Rev.1) (document circulated at the meeting in French only)

3. Mr. de GOUTTES (Country Rapporteur) read out the draft decision on Bosnia and Herzegovina. He explained that, with the help of Mr. Yutzis and Mr. van Boven, he had endeavoured strictly to reflect the conclusions arrived at by the Committee when considering the situation in Bosnia and Herzegovina.
4. The CHAIRMAN said that the draft lacked firmness and dealt only with procedural matters without dealing with any substantive issue. In his view, it was not enough to say that the Committee would continue to consider the situation in Bosnia and Herzegovina. By adopting the draft as it stood, the Committee would run the risk of weakening the effectiveness of its decisions.
5. Mr. RECHETOV, while recognizing that the draft decision on Bosnia and Herzegovina said little that was new, nevertheless found it satisfactory insofar as it dealt with the relations between the Committee and the Government of Bosnia and Herzegovina. The fact that the Committee noted the absence of a delegation and expressed the hope that the State party would be able to be represented before it, despite its difficulties, was extremely important and touched upon a substantive issue in several respects.
6. Mr. van BOVEN suggested that the Chairman should clearly indicate when he was speaking in a personal capacity, so as to avoid any misunderstanding or confusion. As for the draft decision, even if it did seem to deal principally with procedural matters, its chief aim was to prepare for the next session and it was therefore very important.
7. The CHAIRMAN said that he understood it to be the Committee's wish to adopt the draft decision on Bosnia and Herzegovina as it stood.
8. It was so decided.
9. The draft decision on Bosnia and Herzegovina was adopted without change.

Draft decision on Rwanda (CERD/C/52/Misc.42) (document circulated at the meeting in English only)

10. Mr. BANTON (Country Rapporteur) said that drafting paragraph 4 had not been easy. He had done his best to reconcile the wish of some members of the Committee to give strong expression to their concerns regarding the situation in Rwanda on the one hand, with the need to remain within the scope of the Convention on the other.
11. Mr. SHAHI recalled that during the debate on the situation in Rwanda he had drawn attention to reports appearing in the international press to the effect that a new genocide was in the making in that country. The Committee had requested the Chairman to find out whether those reports were true when he met the High Commissioner for Human Rights. Before expressing his views on the draft decision, he would be interested to hear where the matter stood.
12. The CHAIRMAN asked Mr. Shahi to indicate whether he wanted consideration of the draft decision on Rwanda to be deferred until he had obtained the necessary information.
13. Mr. SHAHI said that, if there was no clear information on the situation in Rwanda, he would be obliged to abstain.
14. Mr. SHERIFIS confirmed that he had been in the Chair when the Committee had decided to request the High Commissioner for Human Rights, on the occasion of her meeting with the Chairman of the Committee, to shed some light on the situation in Rwanda.
15. For his part, he was on the whole satisfied with the draft decision on Rwanda. He was, however, a little surprised by the strong wording of the sentence: "It regretted that the State party had not accepted its invitation to attend and furnish up-to-date information", considering that in the draft on Bosnia and Herzegovina the Committee had not gone beyond "noting the absence of a delegation". He reminded the Committee of the need to maintain a certain consistency in its decisions so as to ensure that all States parties were treated equally.
16. Mr. YUTZIS said that, before stating his views, he would like to know whether Mr. Shahi intended to propose adding a paragraph or a statement to the draft decision on Rwanda reflecting his concerns.
17. Mr. SHAHI said that he might propose the addition of a passage referring to information predicting renewed massive violations of human rights, or even an actual genocide in Rwanda, if he did not think it was preferable first to obtain more details about the precise situation in the country. He therefore wondered whether the Chairman expected to obtain the necessary information at the meeting he was to have that afternoon with the High Commissioner for Human Rights.
18. The CHAIRMAN said that his meeting with the High Commissioner would be too brief to enable him to raise questions as specific as those Mr. Shahi had in mind.

19. Recognizing the validity of Mr. Sherifis' remark concerning the need to maintain a certain consistency in the Committee's decisions, he proposed that the same wording should be used for Rwanda as for Bosnia and Herzegovina. The Committee might perhaps take a decision on those two points at the afternoon meeting.

20. Mr. GARVALOV, supported by Mr. YUTZIS, asked whether that meant that the Committee was adopting the draft decision as it stood, except for the two points raised by Mr. Shahi and Mr. Sherifis.

21. The CHAIRMAN replied that it was not possible to adopt the draft for the time being for technical reasons, such as the numbering of paragraphs. It was understood, however, that the discussion at the afternoon meeting would be restricted to paragraph 4.

22. Mr. BANTON, supported by Mr. SHERIFIS, proposed that the sentence in paragraph 3 that read: "It regretted that the State party had not accepted its invitation to attend and furnish up-to-date information" should be replaced by: "It noted that the State party had not attended the session".

23. The CHAIRMAN said that the Committee would continue its consideration of paragraph 4 at its afternoon meeting.

Draft decision on Papua New Guinea (CERD/C/52/Misc.34/Rev.1) (document circulated at the meeting in English only)

Paragraphs 1 and 2

24. Paragraphs 1 and 2 were adopted.

Paragraph 3

25. Mr. GARVALOV (Country Rapporteur) said that the word "apprised" should be replaced by the word "informed".

26. Paragraph 3, as amended, was adopted.

Paragraphs 4-7

27. Paragraphs 4-7 were adopted.

28. The draft decision on Papua New Guinea, as orally amended, was adopted.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations on the sixth to thirteenth periodic report of Lebanon (CERD/C/52/Misc.37, Future CERD/C/304/Add.49) (document circulated at the meeting in English only)

Paragraphs 1-3

29. Paragraphs 1-3 were adopted.

Paragraph 4

30. Following an exchange of views between Mr. Garvalov (Country Rapporteur) and Mr. Sherifis, it was decided to replace the words "military incursions" by "military invasions".

31. Paragraph 4, as amended, was adopted.

Paragraphs 5-8

32. Paragraphs 5-8 were adopted.

Paragraph 9

33. Mr. DIACONU asked Mr. Garvalov whether the words "legal definition" related to ethnic groups or to racial discrimination.

34. Mr. GARVALOV explained that "legal definition" referred to "ethnic groups", racial discrimination being already defined in the Convention.

35. The CHAIRMAN suggested that the paragraph should read as follows: "Concern is expressed at the insufficiency of the legal definition of ethnic groups and protection given to them in domestic law".

36. It was so decided.

37. Paragraph 9, as amended, was adopted.

Paragraph 10

38. Paragraph 10 was adopted.

Paragraph 11

39. Mr. GARVALOV proposed deleting the last sentence of paragraph 11.

40. Paragraph 11, as amended, was adopted.

Paragraphs 12 and 13

41. Paragraphs 12 and 13 were adopted.

Paragraph 14

42. Mr. DIACONU proposed that the words "the enjoyment of" should be inserted in the first line after the words "with regard to".

43. Mr. SHERIFIS proposed that the words "displaced persons," should be included after "ethnic groups,".

44. Paragraph 14, as amended by Mr. Diaconu and Mr. Sherifis, was adopted.

Paragraphs 15 and 16

45. Paragraphs 15 and 16 were adopted.

Paragraph 17

46. Mr. GARVALOV suggested that in order to make it quite clear that the State party was required to fulfil certain obligations under article 7, the paragraph should be rephrased so as to begin with the words "In the light of article 7, there are insufficient measures and programmes ...".

47. Mr. SHERIFIS thought that paragraph 57 of the report of the State party (CERD/C/298/Add.2) had explained the insufficiency perfectly acceptably and that the Committee should acknowledge the fact before saying it was not satisfied.

48. Mr. GARVALOV proposed the following wording: "Although recognizing the validity of the arguments advanced by the State party, the Committee nevertheless notes that there are insufficiencies in measures and programmes ...".

49. Paragraph 17, as amended, was adopted.

Paragraphs 18-25

50. Paragraphs 18 to 25 were adopted.

Paragraph 26

51. In response to the CHAIRMAN's question concerning the country's "major" languages, Mr. GARVALOV said that since the entire population of Lebanon spoke Arabic, the third line of the paragraph was unnecessary and could be deleted.

52. Paragraph 26, as amended, was adopted.

Paragraphs 27 and 28

53. Paragraphs 27 and 28 were adopted.

Paragraph 29

54. Mr. GARVALOV said that he would not object to replacing the word "comprehensive" with the word "updated" if that was what the Committee wished, although it seemed to him that a simple updating was not enough, given the meagreness of the report submitted by the State party after 16 years of silence.

55. Mr. SHERIFIS said that the wording of the paragraph should be left unchanged since it was a full report that the Committee needed.

56. Paragraph 29 was adopted unchanged.

57. The draft concluding observations on the sixth to thirteenth periodic report of Lebanon, as orally amended, were adopted.

58. Mr. Yutzis took the Chair.

Draft concluding observations on the seventh to ninth periodic report of Israel (CERD/C/52/Misc.29) (document circulated at the meeting in English only)

Paragraph 1

59. Paragraph 1 was adopted.

Paragraph 2

60. Paragraph 2 was adopted, subject to the correction of a typing error in the first line.

Paragraphs 3 and 4

61. Paragraphs 3 and 4 were adopted.

Paragraph 5

62. Mr. GARVALOV said that the paragraph was incomplete insofar as it made no mention of the responsibility incumbent on the State party to implement the Convention in all the territories under its jurisdiction.

63. Mr. RECHETOV thought the Committee should express satisfaction at the establishment of a Palestinian Authority.

64. Mr. VALENCIA RODRIGUEZ, supported by Mr. SHERIFIS, said that the Committee could hardly express satisfaction in a part of its concluding observations dealing with impediments to the implementation of the Convention.

65. Mr. de GOUTTES proposed that the two sentences of the paragraph should be split into two paragraphs.

66. Mr. RECHETOV pointed out that the paragraph was contradictory, insofar as immediately after noting with regret the stalemate in the peace process, the Committee took note of a measure which could only contribute to the implementation of the Convention.

67. Mr. de GOUTTES, supported by Mrs. ZOU, said the problem was due to the fact that paragraph 5 appeared in the part of the observations dealing with impediments to the implementation of the Convention. The whole section could simply be deleted, the first sentence of paragraph 5 becoming the beginning of part E and the second sentence the beginning of part D.

68. Mr. ABOUL-NASE, supported by Mr. van BOVEN, Mr. NOBEL and Mr. SHAHI, while sharing the view that part B should be deleted, suggested that paragraph 5 should be kept as it was and placed in the introduction of the concluding observations.

69. Mr. GARVALOV, supported by Mr. RECHETOV, proposed a more neutral formulation, whereby the Committee would state that it was aware of the stalemate in the peace process, aware of the establishment of the Palestinian Authority, but also aware of the State party's responsibility.

70. Mr. BANTON (Country Rapporteur) proposed that the Committee should not only delete part B but should split paragraph 5 into two separate paragraphs, numbered 5 and 5 (a).

71. Mr. de GOUTTES further suggested that the two paragraphs created in that way should become new paragraphs 5 and 6 placed in the Introduction, the following paragraphs then being renumbered.

72. Mr. GARVALOV, supported by Mr. SHAHI, said that, with the new paragraph 6, the Committee appeared to be holding the Palestinian Authority responsible for the implementation of the Convention in the Occupied Territories, which was hardly acceptable. He proposed that the phrase "which has certain responsibilities in some of the Occupied Territories" should be deleted from the future paragraph 6.

73. Mr. NOBEL suggested that replacing the word "some" at the end of the paragraph by the word "parts" would reflect the facts more accurately.

74. Mr. de GOUTTES, supported by Mr. van BOVEN, said that it was not enough simply to note the establishment of a Palestinian Authority. If the Committee decided to delete the end of the sentence, it would have to add something to make the statement meaningful.

75. Mr. BANTON proposed that the second sentence of paragraph 5 should be kept as it was as a new paragraph 6, the word "also" being deleted and the word "some" being replaced by "parts".

76. Paragraph 5, as amended, was adopted.

Paragraph 6

77. Mr. RECHETOV said that the word "Kahana" was misspelt and should be written "Kahane".

78. Paragraph 6, as amended, was adopted.

Paragraph 7

79. Paragraph 7 was adopted.

Paragraph 8

80. Paragraph 8 was adopted.

Paragraph 9

81. Mr. RECHETOV, supported by Mr. NOBEL, proposed that paragraph 9 should be amended to emphasize the fact that changing the demographic composition of

the Occupied Territories was forbidden under international law. He referred in particular to article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949. He proposed the following text: "The Committee reiterates its view that the Israeli settlements in the Occupied Territories are not only illegal under contemporary international law, as attempts to change the demographic composition, but are an obstacle to peace and to the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin."

82. Mr. BANTON said that questions of that kind should really be worked out at the preliminary meetings held to reach agreement on the draft concluding observations.

83. Mr. van BOVEN, supported by Mr. de GOUTTES, said that, from a legal point of view, he agreed with Mr. Rechetov, but that the Committee should retain the proposed wording, because it seemed clearer.

84. Mr. BANTON suggested that the word "contemporary" should be inserted before "international law", that the words "Actions that" should be replaced by "Attempts to" and that the word "international" should be inserted before "humanitarian law".

85. The CHAIRMAN read out the following text of paragraph 9 as amended: "The Committee reiterates its view that the Israeli settlements in the Occupied Territories are not only illegal under contemporary international law, but are an obstacle to peace and to the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin. Attempts to change the demographic composition of the Occupied Territories evoke concern as violations of contemporary international humanitarian law."

86. Paragraph 9, as amended, was adopted.

Paragraph 10

87. Mr. DIACONU suggested that the word "accordingly" should be inserted at the beginning of the paragraph in order to emphasize the link between paragraphs 9 and 10.

88. Paragraph 10, as amended, was adopted.

Paragraph 11

89. After an exchange of views in which Mr. Rechetov, Mr. Banton, Mr. Shahi and Mrs. Zou took part, paragraph 11 was adopted without change.

Paragraph 12

90. Paragraph 12 was adopted.

Paragraph 13

91. Mr. DIACONU said that the phrase "if the State party is to meet" did not convey the impression that the State party had a duty to meet the provisions of article 5 of the Convention.

92. Mr. BANTON suggested that the problem might be solved by replacing the word "if" by "for" and deleting the word "is".

93. Paragraph 13, as amended, was adopted.

Paragraph 14

94. Mr. DIACONU said that the State party had indicated that it was about to adopt new labour legislation applicable to all, including Palestinians and foreign workers. The Committee should encourage it to do so. He therefore proposed that the last sentence should begin: "The Committee encourages the State party to adopt a new labour legislation in order to secure protection against ...".

95. Paragraph 14, as amended, was adopted.

Paragraphs 15-17

96. Paragraphs 15-17 were adopted.

Paragraph 18

97. Mr. van BOVEN said that the order of paragraphs 18-22 was confusing.

98. Mr. DIACONU, supported by Mr. BANTON and Mr. de GOUTTES, suggested that the last sentence should be deleted and that paragraph 18 should follow paragraph 22, as the two texts were connected.

99. Paragraph 18, as amended, was adopted.

Paragraph 19

100. Mr. van BOVEN suggested that the words "next periodic" should be inserted before "report" and that the word "systematic" should be replaced by "comprehensive".

101. Paragraph 19, as amended, was adopted.

Paragraph 20

102. Mr. SHAHI said that the meaning of the paragraph was not very clear. It gave the impression that the State party was perfectly justified in according different treatment to individuals on grounds of public security, ethnic origin or again religion, and that the grounds had simply to be distinguished.

103. Mr. BANTON explained that the Committee should engage in a dialogue on the subject precisely in order to determine whether the grounds invoked by the

State party actually justified the different treatment which took place. The Committee might be able to ascertain, for example, that Israel was not using terrorism as an excuse for practising discrimination based on national or ethnic origin.

104. Mr. ABOUL-NASR observed that the word "discrimination" which Mr. Banton had just used was exactly the one which should appear in the paragraph, which did not seem to him to be strong enough.

105. Mr. BANTON said that in drafting the paragraph he had used the terminology of English law, but would delete the paragraph if it caused any problem.

106. Mr. RECHETOV said that the paragraph was important and should be retained, but be worded differently.

107. Mr. de GOUTTES saw no difficulty in the deletion of paragraph 20. However, if it was retained, he too thought it should be worded more strongly. For example, instead of saying that it would wish to engage in a dialogue, the Committee might "ask for explanations" on the subject from the State party.

108. Mr. SHERIFIS said that, as it stood, the paragraph was neither an expression of concern nor a recommendation concerning the inequality of treatment mentioned, and it might just as well be deleted. However, if it was decided to retain the paragraph, was it necessary to include religion among the grounds for inequality of treatment? The State party might argue that that matter did not fall within the Committee's competence.

109. Mr. NOBEL endorsed Mr. Sherifis' comment on religion. The rest of the paragraph seemed to him to be drafted courteously but very clearly and to the point.

110. The CHAIRMAN, summing up the discussion, said that the Committee had two options: it could either delete paragraph 20 entirely or redraft it. He suggested that Mr. Banton should prepare a new version in collaboration with those members of the Committee who had requested changes. In the meantime the Committee might proceed to paragraph 21.

111. It was so decided.

Paragraph 21

112. Mr. ABOUL-NASR said that the second sentence of the paragraph, in which the Committee asked for other information about any inequalities in the administration of criminal justice, was somewhat inappropriate. The recent decision by Israel's Supreme Court which was tantamount to justifying the use of torture seemed to him to be information enough. The Committee would have noted that the Israeli delegation had not come forward with a denial on that point. The Committee might at least express its concern in that connection.

113. Mr. BANTON explained that the other information requested by the Committee in that paragraph was intended to clarify certain points concerning the treatment of litigants and had nothing to do with the decision of the

Supreme Court, about which he was prepared to draft another paragraph. However, the matter was under consideration by the Committee against Torture and it might be wise to await its report.

114. Mr. RECHETOV said that the Committee could not simply await the conclusions reached by the Committee against Torture. It was up to the Committee, under article 5 (b) of the Convention, to defend the right of everyone to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

115. Mr. de GOUTTES, Mrs. McDOUGALL, Mr. ABOUL-NASR and Mr. NOBEL said that they were in favour of the addition of a new paragraph dealing with Israel's justification for the use of torture.

116. The CHAIRMAN asked Mr. Banton to draft a text; he proposed that in the meantime paragraph 21 should be left in abeyance, as it had failed to secure unanimous agreement despite the explanations provided, and that the Committee should proceed directly to paragraph 22.

117. It was so decided.

Paragraph 22

118. Paragraph 22 was adopted.

119. Mr. DIACONU reminded the Committee that paragraph 18 had to be inserted between paragraphs 22 and 23.

120. The CHAIRMAN said that would be done.

Paragraphs 23 and 24

121. Paragraphs 23 and 24 were adopted.

122. Mr. SHAHI pointed out that the text before the Committee contained no recommendation on the publication and dissemination in Israel of the State party's report and the Committee's concluding observations.

123. Mr. BANTON explained that that had been thought unnecessary since the Israeli delegation provided oral assurances on the subject.

The meeting rose at 1.05 p.m.